

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

**July 27, 2000**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, July 27, 2000 at 1:30 p.m., in the Planning Department Conference Room, 10<sup>th</sup> Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Frank Garofalo, Chair; James Barfield (late arrival); Chris Carraher; Bud Hentzen; Richard Lopez; Ron Marnell; John W. McKay, Jr.; Jerry Michaelis; Susan Osborne-Howes; George Platt; Harold Warner; and Ray Warren. Bill Johnson was not present. Staff members present were Marvin Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner; Scott Knebel, Senior Planner, Lisa Van de Water, Senior Planner, Barry Carroll, Associate Planner; and Karen Wolf, Recording Secretary.

**1. Consideration of Sedgwick County Capital Improvements Program for consistency with adopted Comprehensive Plan.**

**GAROFALO** "We have Stephanie Knebel here from the County on this item."

**STEPHANIE KNEBEL** "I am a Senior Project Manager in the Facilities Project Services Department for Sedgwick County. My function in the C.I.P. process is to focus in on the facility is to focus in on the facility projects. David Spears' job still remains to focus in on the road and bridge improvement projects.

It is my understanding that you all picked up a copy of our recommended budget at your meeting two weeks ago. I would like to draw your attention to Page No. 397. I am going to again draw your attention to about the top half of it, which talks about some primary projects that we will be focusing on for this next year in 2001. If you flip another couple of pages back, beginning on Page 401 through about 404, you will see the entire 5-year plan.

I am here today to just real briefly summarize the projects for next year and to ask for your consideration and approval that this plan complies with the Comprehensive Plan. For the facility projects this year, you can tell that we have some improvement planned for our Juvenile Complex. We have broken that up into three phases. Right now, we are still focusing and planning on those three separate phases. Also, we have indicated in here the construction of a Household Hazardous Waste Facility. We have some maintenance items on our Munger Building and our main Courthouse. The primary projects that are listed in here for 2001 for the road projects include to widen 39<sup>th</sup> Street South by Lake Afton Park, to widen the KTA bridge on Central Avenue and recondition 101<sup>st</sup> Street North between West Street and Ridge Road.

That is a brief summary. I will stand for questions, but will recommend approval."

**GAROFALO** "I do have one question. I understood that the County was supposed to do some work on south Hydraulic in conjunction with what the City is going to do from MacArthur on down to 55<sup>th</sup>. Is that in there? I didn't find it."

**KNEBEL** "It should be in there because we did talk about that project in our C.I.P. meetings. We spent time talking about it because it is a good joint project between City and County as far as coordination. Marvin, where did you find that?"

**KROUT** "I am sure it is here. In 17, Page 402. Sixty-third Street South between Hydraulic and K-15.

**KNEBEL** "Yes, that is on Page 402, Item No. 17, about the bottom third. I am going to apologize for the small print in this book. It was a new type of format that we experimented with this year and it didn't print well, which doesn't help you at all. What we did do is further back in this same section; we have big 8-1/2 x 11 pages that explain in a little more detail about the projects and funding sources and things like that. Mr. Garofalo, what is the street you were referring to?"

**GAROFALO** "It was my understanding that this was supposed to be from 63<sup>rd</sup> Street on north."

**KNEBEL** "There is a project number, No. 31, which has Hydraulic between the west city limits and 63<sup>rd</sup> Street South."

**GAROFALO** "Okay. That's it, then."

**KNEBEL** "That would be project No. 31."

**GAROFALO** "Okay, but that is scheduled for 2002?"

**KNEBEL** "That is correct. With the three phases in there, it would be my assumption that we have designs starting in 2002, the right-of-way in 2003 and construction in 2005."

**GAROFALO** "Okay, thank you. Are there any other questions?"

**KROUT** "Commissioners, I will tell you that I participated as a member of the County Staff Committee and the Land Use, Research and the Transportation divisions reviewed all of those projects in the County C.I.P. that are relevant to the

Comprehensive Plan and we did find that the C.I.P. is consistent with the Comprehensive Plan. That is what we would like you to find."

**MOTION:** That the Metropolitan Area Planning Commission finds that the Sedgwick County Capital Improvements Program is consistent with the adopted Comprehensive Plan.

**WARREN** moved, **MCKAY** seconded the motion, and it carried unanimously (11-0).

**KNEBEL** "Thank you very much, Commissioners."

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**FRANK GAROFALO**, Chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning and vacation items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

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Barfield arrived at the meeting at 1:40 p.m.

## **2. Consideration of Subdivision Committee recommendations**

**GAROFALO** "Commissioner McKay is going to abstain on item 2/2. We are withholding items 2/1 and 2/3. Let's do this separately; let's have a motion on Item 2/2."

**MOTION:** That the Planning Commission recommend to the governing body that the request be approved.

**PLATT** moved, **CARRAHER** seconded the motion, and it carried unanimously. McKay abstained. (11-0-1).

### **2/2. SUB2000-53 - One-step final plat of SCHNIEPP 2<sup>ND</sup> ADDITION, located West of Tyler, South of Kellogg.**

- A. A guarantee is required for the extension of sanitary sewer.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. An off-site drainage agreement is required.
- D. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- E. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant

assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.

- F. The final plat tracing shall reference a tie point to a section corner and its distance to the property.
- G. The lot exceeds the maximum lot width to lot depth ratio of 2.5 to 1. A modification will need to be approved.
- H. County Surveying has advised that the legal description does not close.
- I. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

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**GAROFALO** "Okay, can we get a motion on Item 2/4?"

**MOTION:** That the Planning Commisison recommend to the governing body that the request be approved.

**LOPEZ** moved, **MCKAY** seconded the motion, and it carried unanimously (12-0).

**2/4.     DED 2000-18 -- Dedication of a Utility Easement from Cherrywood Construction, Inc.,** for property located east of Seneca, south of 31<sup>st</sup> Street South.

**OWNER/APPLICANT:** Cherrywood Construction Company, 935 S. Woodlawn, Wichita, KS 67218.

**LEGAL DESCRIPTION:** The east two feet of the west ten feet of Lot 16, Cumley's Addition.

**PURPOSE OF DEDICATION:** As a requirement of Lot Split No. SUB 2000-52, City Engineering required this additional two-foot easement to conform with the ten-foot standard.

Planning Staff recommends that the Dedication be accepted.

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Item taken out of order:

**2/1.     S/D 00-07** - Final Plat of ZOO BUSINESS PARK, located on the north side of 21<sup>st</sup> Street North, East of Hoover Road.

- A. The applicant shall submit a guarantee for extension of City water and sanitary sewer. A sanitary sewer layout is requested.
- B. Depending upon the status of City water and sanitary sewer, the Health Department needs to comment on the possible use of on-site temporary facilities for this site. The Applicant has requested a temporary holding tank for a portion of the site for use until municipal sewer is available.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. A drainage guarantee is required.
- E. County Engineering needs to comment on the need for access controls. The Subdivision Committee approved one opening along 21<sup>st</sup> Street.
- F. County Engineering needs to comment on the need for additional right-of-way. County Engineering has requested the dedication of an additional 10 foot of right-of-way for 21<sup>st</sup> Street North.

The requested right-of-way has been dedicated on the final plat.

- G. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- H. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- I. The applicant shall provide a guarantee for the paving of the internal street to the industrial street standards.
- J. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements.
- K. The recording data on the pipeline easement needs changed from "Book" to "Film".
- L. The pipeline company needs to approve the portion of Zoo Park Circle located over the pipeline easement and located within the pipeline setback.
- M. The west boundary of this plat may need to be revised due to monuments set by Baughman Company for the proposed plat to the west.
- N. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- O. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- P. City Fire Department should comment on the length of the internal street, which is approximately 1,300 feet, exceeding the 600-ft limitation required by the Subdivision Regulations. City Fire Department has requested an emergency access easement across Lot 10 connecting with 21<sup>st</sup> Street North to provide an additional point of access.  
  
The requested emergency access easement has been platted.
- Q. City Fire Department should comment on the plat's street name. The street name shall be Zoo Park Circle.
- R. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- S. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8

for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- T. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- U. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- V. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Z. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- AA. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**NEIL STRAHL**, Planning staff, "This is the final plat of the Zoo Business Park Addition. It is located east of Hoover on the north side of 21<sup>st</sup> Street North. The site was recently annexed into the City and a zone change was approved to 'IP' Industrial Park, subject to platting.

As you can see, the plat consists of an internal street with access to 11 industrial lots. The plat was approved by the Subdivision Committee last week without a condition that staff had recommended. Staff recommended that the cul-de-sac be extended to the west through the adjoining property to Hoover Road. At last week's Subdivision meeting, a preliminary plat for the adjoining property to the west, the Burleson Addition. This proposes 5 industrial lots all which have access off of Hoover Road. Staff has prepared this sketch, which is a layout that encompasses both plats. What we are recommending is that the internal street, Zoo Park Circle be extended to the west through the Burleson Addition plat between Lots 4 and 5, right here (indicating) and to connect with Hoover. In addition, the entrance of the internal street we are recommending be relocated 40 feet to the west to abut the three most southern lots of the Burleson Addition was reviewed. That would eliminate the current 40-foot strip between both plats.

Currently, the plat proposes the street length here of 1300 feet, and that exceeds the 600 foot limitation of the subdivision regulations. To comply with the Fire Department's standards, the applicant has platted an emergency access easement, located right here (indicating), through the southeasternmost lot for access back onto 13<sup>th</sup> Street; however, the Fire Department stated last week that they feel although the current scheme is acceptable, they would prefer staff's loop street suggestion.

Now, the extension of the internal street, Zoo Park Circle, would allow lots in the adjoining plat to have access off the internal street. The two most northern lots in the Burleson Addition would have access off the street right there and the three most southern lots also would have access off of the internal streets.

The number of access points, then off of Hoover, a section line road, would be reduced from the four openings the applicant is proposing, down to zero openings. The current policy in both the Subdivision Regulations and the Comprehensive Plan encourages the reduction of the number of driveways onto the street for commercial and industrial plats such as this, both to improve traffic safety and improve traffic flow. Staff recommends that our proposed street layout be required for this plat. Are there any questions for staff?"

**GAROFALO** "Are there any questions of staff? I guess my attention was diverted when you were talking about the emergency access. Would that still be required if we went all the way through?"

**WARREN** "That was a condition of the Subdivision recommendations. A requirement."

**STRAHL** "That was a condition that probably could be removed. I would have to discuss that."

**GAROFALO** "No. I am not arguing that we would. I was just wondering if that changed because of your putting the street through there. So it would remain?"

**STRAHL** "It probably could be removed."

**KROUT** "If this subdivision developed before the other one, then maybe there would be an option if this other street was dedicated. If that plat went forward and the street was dedicated, would there be an option to cut some temporary roadway through that street instead? So, unless that plat didn't continue, to eliminate the condition of the secondary access."

**GAROFALO** "Okay. Are there any other questions?"

**WARNER** "Do the applicants agree to this?"

**STRAHL** "No, they don't."

**WARNER** "Oh. So the reason this is here being considered by the full Commission after the recommendations of the Subdivision Committee is that the Subdivision Committee approved something that staff doesn't like. Is that correct?"

**STRAHL** "That would be correct."

**KROUT** "Whenever there is an issue, particularly like this one where we think that there is a waiver of the Subdivision regulations, in this case the access controls and also the requirements for streets to continue from plat to plat, that it is good for the whole Planning Commission to take a look at it. Not on every subdivision plat, but ones like this, where there is a platting issue involved. We think that platting is a part of planning like zoning is a part of zoning. I think there is a planning issue involved in terms of the overall quarterly development of this area. So, we do bring it to your attention.

I am not going to contest this issue if the Planning Commission votes to approve the subdivision without the street extension, I am not going to make a big deal of it at the City Council."

**MARNELL** "What is on our agenda, though, is only the right half of this, isn't it?"

**STRAHL** "That is correct."

**MARNELL** "I would certainly put my two bits in here that if we had both items here, and we had in fact, the power to do so, this looks like this makes a lot more sense than the other version. But I don't know if we have the authority to do that."

**KROUT** "I think what you could do is require on this plat for there to be a contingent dedication that would continue east to line up with that plat and that contingency would be that the other portion of the street would be dedicated when that property plats. If later the Planning Commission decides that they are not going to require that right-of-way or the plat is withdrawn, it would be nothing more than a contingent dedication. If you approve the plat to the west without any right-of-way, then there would be no reason for the contingent dedication any more.

This is like the process of sharing access and trying to do planning through the incremental process of one developer developing at a time, trying to make it all make sense in the end. In this case, I think we were fortunate because we saw both of these plats coming at the same time. They are not exactly on track, but the Subdivision Committee could see the preliminary plat on the same day for the plat to the west as this one on the right."

**PLATT** "I would say first that I think this is a very legitimate item for the whole Planning Commission to take a look at for the reasons that have just been said. Now is the time to look at it from a platting standpoint to make some very good arguments that this makes sense. But before I get into the discussion of that, I have one question of Neil. I assume the applicant will be speaking here, but they did comment that in terms of moving that street over to the west that there was a pipeline easement there on the line going through the property. Does it or does it not represent a problem in putting the street there?"

**STRAHL** "Well, I think something still could be worked out relative to creating a stub right here (indicating) for access to the adjoining lots, even if the existing street was where they propose it to be, to the east."

**GAROFALO** "Does that answer your question?"

**PLATT** "That speaks to it, yes, but I am not....I think there is a problem here."

**MICHAELIS** "Neil, I think it needs to be pointed out, too, because I believe, if I remember right, part of staff's recommendations was that the property to the west would then be subject to bear the costs of the paving and things required in that which, in their plat they said they currently have none. That is quite burden that we are placing upon them through this. For the benefit of the Commissioners that don't sit on the Subdivision Committee, this was very adamantly opposed by both applicants, not just one; for several reasons, all justifiable."

**STRAHL** "That is correct. Both owners would be participating in the paving petition and any other associated petitions."

**MCKAY** "A couple of things. No. 1, the timing of the one to the west, I firmly believe that if the one to the west hadn't of come in as a preliminary plat, this one would have been approved the way it is.

No. 2, if we are going to bring things to the full Commission, that the Commissioners have the same privilege that we had,

looking at what we have got here in front of us, so you can see. Because if we move the street over directly, you are setting the entrance to the street on top of a pipeline. You can go across it the other way, but at least the entrance is not on the pipeline as the way it is designed by the applicant. Also, I would point out that the Subdivision Committee voted 6-0 in favor of the way it was done."

**WARREN** "I would like to just tack on a little bit to what Commissioner McKay said. It is too bad, if we are going to reconsider this at the full Commission that they don't have all of the information that we had in Subdivision. We worked on this Zoo plat, I think four times now. But some of the things that haven't been brought out here, and maybe they will when the applicant is here, and that is the different character of these two developments. They are altogether different. There was a purpose of having his isolated with a cul-de-sac for that very reason because of the character of that development, it is going to be an 'IP' if I remember. It's Industrial Park where the other one is Limited Industrial.

Both applicants oppose what staff is recommending, I think that needs to be taken into consideration, and the fact that we are coming up here with final plats that would be changing everything at this point."

**MARNELL** "The future plat that is not part of this now, could not the access to Hoover be solved by an interior frontage road. I think having 6 entrances along there probably doesn't make a lot of sense for controlling traffic, but we will try to impose it on the backside."

**KROUT** "The Subdivision Committee did reduce the number of access points from 6 to 4 on those 5 lots."

**STRAHL** "Right."

**KROUT** "One shared access between the first two lots on the south and then one access point per lot for the remainder of the lot, so they did reduce the number of access openings onto Hoover Road in their approval of the plat."

**WARREN** "You see that is 1300 feet. That is a quarter of a mile in there. That is a pretty good sized plat."

**GAROFALO** "Are there any other questions of Neil? Is they applicant here? The agent is."

**MARK SAVOY** "I am with Savoy, Ruggles, and Bohm, here representing the applicant. Now, we have several reasons for not wanting to do this. One of the primary reasons was that we did get Industrial Park zoning. That is a little different than the other one. That one is Industrial zoning with a Protective Overlay. I don't know all of the details of it.

Some of the reserves that that have been platted adjacent to this street were for landscaping and beautification. The pipeline created an opportunity to come up with some of these ideas, but there is a lot of extra land that is being given also to create open space. As our street turns and goes north, we even have a pretty good size reserve on the west side for landscaping to try to make this a little bit different than just a big industrial area. We are truly trying to make it an industrial park, with emphasis on the word 'park'.

We resolved the length of our street by virtue of the emergency access point. We have two ways in that are less than 600 feet to get back to that back area. We did not want to extend the street, it causes us extra expense to extend streets, and to the west we don't need it. Even in our analysis in trying to justify extending onto Hoover Road, most particularly since we have resolved our emergency access, was that originally we went and asked the adjacent owner before he was in the platting process and zoning process if he would be willing to give us even an access easement across there. It kind of goes right through the middle of a building site as far as from their perspective or their plan. They weren't really willing to even give us an emergency access easement out to Hoover Road, much less an outright street dedication. It just didn't seem to benefit them.

When we look at it now, we see it as...I think they have about 300 feet of depth east and west across there that creates, I guess one drive entrance, if you want to look at street openings and drives, counting them as an entrance. It is a heck of a lot of industrial street paving to get across there for what could be a joint drive entrance between two lots, most particularly when it doesn't even line up between the two lots that they have there anyhow.

We are opposed to moving the street over to the south, for a couple of reasons. One is the beautification. One, we moved it far enough east so that we could get inside this property and then be able to have a drive turn and go east into our lot that is east of and adjacent to that entry street. The pipelines are a problem. There are four pipelines there. One pipeline easement; four pipelines. They are very shallow. They are requiring quite a bit of cover over their pipelines and that has caused us a lot of grief in trying to come up with drainage plans for the area because we plan on humping our street over the pipelines because once you start lowering one they are going to make you lower it for a long ways, not just right there underneath that street. It is a terrible expense.

So we have worked with them in trying to work out a way to cross their pipelines and try to hold the cost down, still being able to satisfy drainage requirements. I guess my comment last week, even about the pipelines. You are in a situation where you are going to try to be put driveways also over those pipelines. Pipeline companies are a little sensitive to covering their pipelines through there with too much concrete. We are opposed to it. We have tried to work with the consultant for the adjacent property, and they really didn't see any real benefit, plus we are trying to mix two properties together into what one had visualized as more of a park idea, and now you are bringing a lot of other driveways onto us.

We are just really opposed to it. We had asked the Subdivision to consider approving our plat with all of the other

requirements in place except for this change in the street right-of-way, and they did agree with us unanimously, and we ask that you make that same consideration. I would be glad to answer any questions. I would mention that the adjacent property owner's agent is here if you have questions of him."

**GAROFALO** "Any questions of Mark? Is there anyone else to speak on this item? One way or the other."

**RUSS EWY** "I am with the Baughman Company. I am the agent for the applicant for the Burleson Addition, shown here. I wasn't too sure how to take your silence when asked if anybody had any questions of me, so I decided to jump up and reiterate what both members of the Subdivision Committee and Mark Savoy voiced here this afternoon and that is that we are opposed to staff's recommended redesign of the plat. I think it has obvious negative impacts for our development as well as Mark's. I would be happy to answer any questions as they relate to the plat that you will be seeing in the final stage here in the next few weeks."

**GAROFALO** "Any questions of Mr. Ewy? I guess not. Okay, we will take it back to the Commission then. I don't think there is anyone else who wishes to speak."

**MOTION:** That the Planning Commission recommend to the governing body that the request be approved."

**MCKAY** moved, **MICHAELIS** seconded the motion.

**GAROFALO** "Is there any discussion?"

**PLATT** "This is kind of a tough case in my mind, for the reasons that we have been discussing so far, and also for another reason. That is that when the zoning change was approved for this, I spoke rather strongly against the Industrial Park zoning here in terms of my concern that I felt it wasn't proper treatment for the entrance to the Zoo. The Zoo folks thought that this was all right, so I ended up voting for it, although I was a little disappointed in them.

But the one reason why I did finally go along with approving the zoning was because it didn't seem to me that there was legitimate reasoning saying that a proposed Industrial Park was going to do a better job of treating the area in terms of its reserves and landscaping than a lot of things that we could have had in there. So I was kind of satisfied that we were perhaps making not the best move for the entrance for the Zoo, but certainly not the worst.

So when the question came along of tying this in with the plat to the property immediately to the west, I guess the thing that concerns me the most is that we are going to be taking what we had done to, it seemed to me, to do an industrial park that would have a park-like atmosphere to it, and with the adjoining lots, then really turn it into some sort of an industrial zoning area, which I thought was going to downgrade the whole concept of the original industrial park.

So I guess I am still a little inclined to vote for the motion based on those grounds, although I would reiterate that I think the staff is proper in bringing this issue before us for our full consideration."

**GAROFALO** "Is there any other discussion?"

**VOTE ON THE MOTION:** The motion carried unanimously with 12 votes in favor.

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**2/3. SUB2000-56** - One-Step Final Plat of ELLSON COURT ADDITION, located south of Central, east of Greenwich.

**KROUT** "This item is related to Zoning Agenda item No. 8, and there have been questions that were brought up by neighbors of this property concerning drainage issues that delayed the platting issues. It would be appropriate, in our minds for you to wait before acting on the subdivision plat to hear the zoning case, and maybe you could hear any comments about drainage that relate to the plat at that same time. We recommend that you just defer action on subdivision item 2/3 for now and continue on, and bring it up along Agenda Item No. 8 later in the agenda."

**WARREN** "Later today?"

**GAROFALO** "Yeah, when we take up item No. 8. Okay."

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**GAROFALO** "Okay, we have vacation items. These are public hearing items. Do we have anyone here who wishes to speak on Vacation Item 3/1 or 3/2?"

**LISA VAN DE WATER**, Planning staff "Both of these cases were heard by the Subdivision Committee and I have nothing further to add beyond that presentation, and would recommend approval by the Planning Commission as they were presented."



**GAROFALO** “Are there any questions of Lisa?”

**MOTION:** That the requests be approved, subject to staff comments.

**MCKAY** moved, **LOPEZ** seconded the motion, and it carried unanimously (12-0).

**3/1. VAC2000-00028 - Request to vacate a portion of building setback.**

OWNER/APPLICANT: Jay & Rebecca Stalkup

LEGAL DESCRIPTION: The north 10 feet of the south 25 feet designated as 25-foot building setback on Lot 1, Block 11, Westlink Village 14th Addition, Wichita, Sedgwick County, Kansas EXCEPT west 25 feet of said lot.

LOCATION: Northeast corner of Parkdale and 17<sup>th</sup> Street North (1804 N. Parkdale)

REASON FOR REQUEST: To add third bay to garage.

CURRENT ZONING: "SF-6" Single-Family Residential

The applicant is requesting to vacate 10 feet of a 25-foot building setback along the street side property line for the addition of a third bay to the existing garage.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle of notice of this vacation proceeding one time July 7, 2000, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of building setback, and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

B. Therefore, the vacation of a portion of building setback described in the petition should be approved.

The Subdivision Committee recommends approval.

**3/2. VAC2000-00029** - Request to vacate street and alley right-of-way.

OWNER/APPLICANT: Charles & Nancy Mattingly Revocable Trust, c/o Bachus & Son

AGENT: Ryan Bendell, The Yard

LEGAL DESCRIPTION: Hinton Avenue right-of-way and the east-west alley right-of-way as platted on Hinton's Subdivision, Wichita, Sedgwick County, Kansas

LOCATION: South of Central and west of Mead

REASON FOR REQUEST: Unused right-of-way

CURRENT ZONING: "LI" Limited Industrial

The applicant is requesting to vacate unused street and alley right-of-way within Hinton's Subdivision. The applicants wish to install security fencing around their existing business, which includes installing the fencing across existing right-of-way. This right-of-way was never developed and the applicants own all the property adjacent to it.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle of notice of this vacation proceeding one time July 7, 2000, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described street and alley right-of-way, and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of street and alley right-of-way described in the petition should be approved, subject to the following conditions:
1. The applicant shall provide a Restrictive Covenant that ties together all lots in the application area.
  2. Any relocation of KGE equipment supplying electricity to onsite lighting shall be the responsibility of the applicant.

The Subdivision Committee recommends approval, subject to the following conditions:

1. The applicant shall provide a Restrictive Covenant that ties together all lots in the application area.
2. Any relocation of KGE equipment supplying electricity to onsite lighting shall be the responsibility of the applicant.

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**ZONING:**

4. **Case No. PUD2000-00002** - Stan Chilton (Owner/Applicant); Gary Snyder (Agent); Security Self-Storage, c/o Bill Ard (Contract Purchaser); PEC, P.A. c/o Gary Wiley (Agent) request the development of a PUD to allow for self-service storage warehouse on 2.85 acres, described as:

Part of Lots 1, 3, 5, 7, 9, 11 and 13 on Hillside Ave., together with the East 1/2 of the vacated alley adjacent on the West and Lot 12 and part of Lots 14, 16 and 18 on Lorraine Ave., together with the West 1/2 of the vacated alley adjacent on the East and Lots 11, 13, 15, 17, and part of Lots 19 and 21, on Lorraine Ave., together with the East 1/2 of the vacated alley adjacent on the West and Lots 16, 18, 20 and 22, on Chautauqua Ave., together with the West 1/2 of the vacated alley adjacent on the East and part of Lorraine Ave., all in Schumacher's Subdivision of Lots 1 and 2, Block 4, in Imboden and Oliver's Addition to the city of Wichita, Kansas, and part of Lots 20 and 22, on Chautauqua Ave., together with part of the vacated alley lying East of and adjacent to said Lot 22, all in Conlan's Subdivision of Lots 3 and 4, in Imboden and Oliver's Addition to Wichita, Kansas, all being more particularly described as beginning at a point on the West line of Lot 20, on Chautauqua Ave. in said Conlan's Subdivision, said point being 21.85 feet South of the Northwest corner thereof; thence North, along the East line of said Chautauqua Ave., 146.85 feet to the Northwest corner of Lot 16, on Chautauqua Ave., in said Schumacher's Subdivision; thence East along the North line of said last described Lot 16 and extended 137.02 feet to the centerline of the vacated alley adjacent to said Lot 16; thence North along the centerline of said vacated alley, 50 feet to a point on the North line of Lot 11, on Lorraine Ave., in said Schumacher's Subdivision, extended West; thence East along the North line of said last described Lot 11, and the extensions of the same, 163.52 feet to the centerline of said Lorraine Ave., thence East along the North line of Lot 12, on Lorraine Ave., in said Schumacher's Subdivision and the extensions of the same, 163.5 feet to the centerline of the vacated alley adjacent to said Lot 12; thence North along the centerline of said vacated alley, 143 feet to a point on the North line of Lot 1, on Hillside Ave., in said Schumacher's Subdivision, extended West; thence East along the North line of said last described Lot 1, and said extension, 117.88 feet to a point 110.38 feet East of the Northwest corner of said Lot 1; thence South parallel with the West line of Lots 1, 3 and 5, on Hillside Ave., in said Schumacher's Subdivision, 83 feet to the point of curvature of a curve to the right, having a radius of 173 feet; thence Southwesterly along said curve and through a central angle of 19 degrees 09'25" an arc distance of 57.84 feet; thence Southwesterly, 606.95 feet to the point of beginning; together with Lot 1, 400 Lorraine Addition, Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of Hillside and Lewis.

**LISA VAN DE WATER**, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

**BACKGROUND:** The applicants are proposing to establish a Planned Unit Development (PUD) district to allow a self-service storage warehouse facility on property that is currently zoned "GO" General Office. In addition, a portion of the application area is property that was, until recently, part of the right-of-way for the Kellogg/Hillside Interchange. The right-of-way was re-acquired from the State by the City of Wichita, and one of the applicants of this request is also under contract to purchase the remaining surplus right-of-way from the City. The total application area for the PUD is 2.85 acres. The application area includes property west of Hillside, south of Lewis, north of Kellogg and east of Chautauqua, excluding the existing homes on the east side of Chautauqua and south of Lewis. Currently, there are three homes on the

property zoned "GO" (south of Lewis and Lorraine). The remainder of the property is vacant, but has been maintained as state highway right-of-way.

The applicant submitted a site plan for the proposed self-service storage warehouse development. The site plan shows a self-service storage warehouse facility consisting of 13 storage buildings, one of which contains the office/residence, a maximum of 41,620 square feet of building coverage and a maximum building height of 25 feet. Three of the buildings will be climate controlled. Access to the site is shown from Lewis, a residential street that intersects with Hillside, approximately 80 feet east of the entrance to the facility.

The site plan indicates that the facility will be enclosed on the north and west by a combination of exterior storage building walls and wrought iron fencing located between the gaps in the buildings. The site plan also indicates that there will be a continuous wrought iron fence along the south and east property lines. The site plan shows a 15-foot landscaped buffer and building setback along the north and west boundaries adjacent to the "TF-3" zoning and 20-foot landscaped buffers and building setbacks along Chautauqua, Lewis, and Hillside. In the landscape areas and the required streetyard landscaping area, the applicant will plant 1.5 times the Landscape Ordinance requirements, which will be one tree for every 20 lineal feet of property line.

The applicant also submitted building elevations for the proposed self-service storage warehouse facility (Exhibit A). Exhibit A indicates that all building exteriors will share the same predominate blue, gray, and brick color exterior building materials. The exterior building materials are designated as brick, wood, and metal for all buildings, with asphalt wood-color shingle roofs. The elevations show hip roofs on most structures with a maximum building height of 24 feet on the westernmost building. Signage is shown on the North and East elevations of the office/residence building, adjacent to Hillside and Lewis. This signage shall not exceed 50 square feet for any one sign and shall include a monument sign, not to exceed 12 feet in height, on the corner of Hillside and Lewis.

The surrounding area is predominately developed with single-family residential uses to the north and west, Kellogg to the south, and single-family residential uses to the east across Hillside. The most directly impacted properties by the proposed development are single family homes on property zoned "TF-3" Two-Family Residential located to the north and west of the site.

Planning staff recommends that the site be developed in general conformance with the development standards in the Unified Zoning Code for self-service storage warehouses in the "GO" and "LC" districts. Although general conformance is met with the proposed PUD, the site is not contiguous with a less restrictive zoning district, it does not have direct access to an arterial street, and it does not meet the 25-foot compatibility setback requirement.

The Planning Department has received calls from the adjacent neighborhood indicating the need for a park and open space in this area. The Comprehensive Plan maps all the parks in the Metropolitan area, but shows no park within the boundaries of Hillside, Grove, Douglas, and Kellogg. The closest park is in College Hill, across Hillside and approximately ½ mile away from the site.

**CASE HISTORY:** The portion of this property that is currently zoned "GO" was re-zoned in 1977 (Z-1928) and re-platted in 1978 as 400 Lorraine Addition. Despite the "GO" zoning, the use on this property has remained single-family residential. The remainder of the property was acquired for the construction of Kellogg in 1974 and 1975. Not all of the right-of-way was used for the construction of the interchange and has remained vacant since that time. Both the City of Wichita and Mr. Chilton has acquired ownership of the vacant right-of-way, which was deemed surplus by the City of Wichita. The City's portion of that re-acquired right-of-way is under contract to sell to Mr. Chilton. Security Self-Storage has an agreement to purchase all of Mr. Chilton's property.

#### **ADJACENT ZONING AND LAND USE:**

NORTH: "TF-3" Residential  
SOUTH: Kellogg Right-of-Way  
EAST: "SF-6" Residential  
WEST: "TF-3" Residential

**PUBLIC SERVICES:** This site has access to Lewis, a two-lane local street. Traffic volumes are not available for Lewis. Municipal services are available to this site.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Low-Density Residential" and "Office" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Unified Zone Code contains development standards for self-service storage warehouses located in the "GO" and "LC" districts. The Area Treatment Classification Map identifies this general location as a "Revitalization" area.

**RECOMMENDATION:** Based upon information available prior to the public hearing, planning staff recommends that the request be APPROVED, subject to platting within one year and the following conditions:

- A. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body. Any

substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

- B. The third paragraph of General Provision #4-A shall be revised to read, "Portable signs, off-site signs, banners, string pennants and the like shall not be permitted, except for a banner sign permitted for 30 days from the opening of business."
- C. General Provision #4-B shall be revised to read, "Building signs shall be permitted on the North, East and South elevations of Building "A". Said building signs shall not exceed 50 square feet, use individual letters, and be similar to the building signage shown in Exhibit "A"."
- D. A General Provision shall be added that reads, "Outdoor speakers and sound amplification systems shall not be permitted on the site."
- E. A General Provision shall be added that reads, "A resident manager shall be required on the site and shall be responsible for maintaining the operation of the facility in conformance with the conditions of approval."

The staff's recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The surrounding area is predominately developed with single-family residential uses. The most directly impacted properties by the proposed development are single-family homes located west and north of the site. South and east of the subject area is the Kellogg-Hillside interchange. There is a dental office at the northeast corner of Lewis and Hillside, and single-family homes beyond that to the east.
- 2. The suitability of the subject property for the uses to which it has been restricted: A portion of this property is zoned "GO" General Office. Offices could be developed on the site, however the site has remained undeveloped as this use since it was re-zoned in 1977. The vacant right-of-way is surplus and would not be considered a buildable lot if not used in conjunction with the adjacent property.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental effects on properties from lighting, noise, and other factors should be mitigated by the requirements of the Unified Zoning Code and the Landscape Ordinance and the recommended conditions of approval for the PUD zoning. The intended use is a low traffic generator with a manager that resides on the premises.
- 4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Low-Density Residential" and "Office" development. Although the self-service storage warehouse use is a commercial use, the Unified Zoning Code places conditions on this type of use when located in a "General Office " zoning district so that impacts of the use on the surrounding neighborhood are minimized. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
- 5. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities.

**MCKAY** "For the record, I have been contacted by the opposition by letter and by phone call."

**GAROFALO** "Anyone else? The same thing?"

**LOPEZ** "I received a letter."

**PLATT** "I have been contacted by the opposition in terms of letter, phone call and in person. I have also been contacted in person by the applicant."

**OSBORNE-HOWES** "I was also contacted by the applicant by phone, and then by letter from the opposition."

**GAROFALO** "And Commissioner Warner, too."

**KROUT** "If you received a letter, I assume it was a form letter, let's make a copy of that for the file. Any materials you receive on this would probably be helpful, for the record. Is there anything about the nature of what was said that you would like to disclose? Any information that may influence your decision on the case this afternoon?"

**MCKAY** "Mine was just related to the fact that it wasn't in consistency with the neighborhood and they thought it would detract from the neighborhood. It is an older neighborhood. No, it didn't have any influence one way or another."

**GAROFALO** "Anyone else?"

**OSBORNE-HOWES** "I think several of us did get the letter."

**GAROFALO** "I think we all did get the letter."

**VAN DE WATER** "The contract purchaser, which is the co-applicant on this application, is Security Self-storage. They wish to develop this site for a self-storage warehouse facility. A portion of this property is currently zoned 'GO' General Office, while the remainder is currently not zoned because it was taken as right-of-way for the construction of the Hillside/Kellogg Interchange. To the north and west, the property is zoned 'TF-3' Two-family residential; across Hillside to the east is 'SF-6' zoning, again, right-of-way that was taken for the development of this interchange.

(Indicating) This property, shown as 'LC' zoning, is actually, we believe, in error in the zoning map, and we would recommend that at a later time this be brought back to you with proper notification for down zoning, or at least the correction of the zoning map, to reflect what we believe should continue to be the 'TF-3' zoning district.

The surplus right-of-way as was seen in white on the previous slide; Lewis, Chautauqua, Lorraine, extending north of the property, what used to be Lorraine, which is now vacated as a result of the replat of the General Office zoned property. There are three houses existing on the property. This property has never been developed for office uses but it was zoned for in 1977 and replatted in 1978.

The applicants have submitted a site plan for this PUD application. You should have copies of this in your staff report. As submitted, the site plan shows 13 storage buildings, three of which are climate controlled; one of which contains a residence for an on-site manager. That building is here (indicating); the residence would be incorporated into this structure. Again, for orientation: Hillside, Kellogg, Chautauqua and Lorraine, north of Lewis.

The applicant has provided for building setbacks along Hillside; setback and landscape buffering along all portions which abut residential zoning. No additional landscaping along Kellogg, although currently there is landscaping that was provided for with the interchange development along Kellogg.

Elevations, which you also received copies of in your staff report. This particular building is the building closest to Hillside, which will contain the resident, just to give you an example of the construction of those buildings. They do have hip roofs, for the most part. The construction roofing will be shingle roofs, wood and brick siding with brick partially up the sides of the buildings. You do have samples of all of the elevations in your staff reports. I am only showing you the building closest to Hillside and the tallest building, which is the last page of the elevations I gave you.

(Indicating) This would be the building closest to Chautauqua on the southwest portion of the site. This will be a climate controlled building. All elevations that will be visible to the north and west will be such that there are no doors facing outward towards the residential districts. The backs of these buildings will act as a screen from the interior of the structure, and between each building, there will be wrought iron fencing.

I believe the applicant can go further into detail of what this will look like, and I know that they have color renderings, which will hopefully better enable you to see what this would look like.

Self-service storage warehouse facilities are permitted with a Conditional Use permit in the General Office and Limited Commercial districts; subject to conditions that are meant to minimize the impact of the use in areas that are likely to have adjacent residential zoning. They are permitted by right in less restrictive zoning districts, in other words, General Commercial and more intensive. Any use may be permitted within the PUD zoning district, provided it is consistent with the zoning code and an approved PUD plan. Zoning standards and regulations may be varied or modified as part of the PUD plan approval and rezone process, including compatibility setbacks.

There is general conformance with this PUD request and the conditions imposed for this type of use in the General Office and Light Commercial zoning districts, except that the site does not have direct access to an arterial, in this case Hillside, and there is no contiguous zoning that is less restrictive. In other words, Limited Commercial or more intensive. Additionally, the plan does not meet the compatibility setback requirements imposed by the Zoning Code. But I should further state that all of these exceptions can be modified through this PUD process.

Staff is in support of this request for several reasons. The contract purchaser in this case, Security Self-Storage, has a good reputation for building quality facilities, and the plan and elevation drawings that were submitted as part of this application reflect what has been done in the past. The plan calls for landscaping at 1-1/2 times what is required by the City Landscape Ordinance and will provide buffers to the surrounding residential zoning. All of the doors, the storage rooms, will face inwards or towards Kellogg.

A portion of the property is already zoned General Office and currently had the potential for more intensive uses than what is suggested here. The use requested would generate much less traffic than the uses currently permitted on the majority of this site. Staff's support is contingent on platting within 1 year and conditions. I have listed the conditions in the staff report on Page 4. Items A through C are minor revisions of the conditions that were stated in the PUD. Item D is a

general provision that we would like added to the face of the PUD that prohibits outdoor speakers and sound systems. Item E is another general provision addition, regarding the requirement for an on-site manager. In addition, I would like to add one other condition that is not in your staff report, Condition F, that states that the applicant shall submit four revised copies of the PUD to the Metropolitan Area Planning Department within 30 days after approval of this application by the governing body, or the request shall be considered denied and closed.

This recommendation is based on findings listed on Pages 4 and 5 of your staff report. You do have a significant packet of information in front of you that is additional, either submitted from surrounding property owners, surrounding neighborhood associations, or the applicant themselves. You also have a copy of a memo from the D.A.B. #1 representative, recommending denial of this application. The memo itself states that the vote was 6-1. That is in error. It was actually a vote of 9-1 to deny the request. One of the other items that you have is a request for denial from the East Front Neighborhood Association.

I also need to state that I received a phone call from Jim Dolenz, President of the Uptown Neighborhood Association, which is north of Douglas and west of Hillside. They also unanimously oppose the request. I would be happy to answer any questions that you might have."

**GAROFALO** "Are there any questions for Lisa?"

**HENTZEN** "Lisa, the zoning slide you had up there that showed green, would you put that back on? Okay, right there. The green is General Office. What is the white?"

**VAN DE WATER** "That is right-of-way that was taken for the development of the Hillside/Kellogg Interchange. It is not zoned."

**HENTZEN** "It is not zoned. If this thing goes through, it would have to be zoned?"

**VAN DE WATER** "It would have the PUD zoning."

**HENTZEN** "Okay. That's all right now."

**WARREN** "The PUD, then, would overlay the 'GO' zoning also?"

**VAN DE WATER** "The PUD would wipe out the 'GO'. It is its own separate zoning district."

**BARFIELD** "How many homes will be displaced for this project?"

**VAN DE WATER** "The current homes are on the property that is zoned General Office. There are three homes that sit on this property. They are the only homes that will be removed as part of this project."

**GAROFALO** "Are there any other questions? I have a question. Does the City own the right-of-way?"

**VAN DE WATER** "No, actually, Mr. Chilton, who is the owner of the General Office property and the applicant in this application, owns the property. I spoke with Property Management this morning. This is a bit of a confusing issue. This property is owned outright by Mr. Chilton. When the property was acquired for right-of-way in the construction of this interchange, the City obtained a permanent easement over this property. The underlying ownership remained, but the City had that permanent easement for road only. In the 1980s, I believe 1986, when it was obvious that this property was not going to be used for the right-of-way for any of the construction, Mr. Chilton approached the City to see if he could re-obtain fee title on that property.

He owned this section here (indicating). This is what used to be Lorraine; this is what used to be the alleys. He owned underlying ownership of this property, (indicating) including the road, and this property, (indicating) which is adjacent to Hillside. There were other property owners that had the underlying ownership. After approval from KDOT, Mr. Chilton was granted fee title of these areas. The City attempted to get in touch with these owners but was unable to. They condemned those properties, paid monies to the courts, which is in holding if those property owners should ever show up. But in essence, obtained fee title on those properties. Subsequently, there was a contract between the City and Mr. Chilton for Mr. Chilton to purchase those properties to make this one cohesive buildable property."

**GAROFALO** "Okay. I have one other question and then Commissioner Barfield has one. The General Office was platted?"

**VAN DE WATER** "Yes. In 1978. It was rezoned in 1977 to General Office, replatted in 1978. This was all after the right-of-way was acquired in 1974 and 1975 for the interchange project."

**GAROFALO** "Okay. So that has been zoned for some time?"

**VAN DE WATER** "Yes."

**BARFIELD** "So you are saying that the property where the houses are located is already owned by Mr. Chilton?"

**VAN DE WATER** "Correct."

**BARFIELD** "Okay. Can you go back to the previous screen. You mentioned that one area there where the red is that we need to readdress at some point in time, the other in yellow, is that residential?"

**VAN DE WATER** "It is. There are four homes that face Chautauqua."

**GAROFALAO** "Are there any other questions of Lisa?"

**OSBORNE HOWES** "I am looking through the list of uses for General Office. Which of those uses do you think are a lot more intensive than others?"

**VAN DE WATER** "From a traffic standpoint, the medical office would generate a significantly greater number of daily trips than a mini-warehouse or a self-storage warehouse."

**OSBORNE-HOWES** "What else?"

**VAN DE WATER** "Well, a General Office complex, for instance, as an example, one of a 20,000 square foot building space would generate also more traffic than the self-service storage warehouse."

**OSBORNE-HOWES** "Because on a lot of these, I am looking at things like libraries, schools, broadcast studios, funeral homes, learning facility. They don't strike me as highly intensive."

**VAN DE WATER** "In looking at what else has developed along Hillside and this somewhat of a medical office corridor, looking towards what would likely be developed along that location, that use seems like a logical one to use for comparison in this case."

**OSBORNE-HOWES** "Thank you."

**BARFIELD** "How many units are we talking about?"

**VAN DE WATER** "There are 13 buildings. I don't have the exact number of actual storage units, but I am sure the applicant can address that."

**GAROFALO** "Anybody else? Okay, then we will hear from the applicant."

**GARY WILEY** "Mr. Chairman, Commissioners. I am here on behalf of the contract purchaser, Security Self-Storage. First off, I would like to start out by saying that we are in complete agreement with the staff comments, including Item F that Lisa just added.

Lisa did mention how this particular development did not comply with the strictest of the zoning district. One, the compatibility setback. Once this is replatted, there area along Lewis would be the front yard, so it does meet the compatibility setback there that we proposed, of 20 feet. Along the westerly line of the property would be required the 25 foot building setback. We have proposed a 15-foot building setback, but increased the landscaping to 1-1/2 times and limited to no doors to face to that direction at all. It would be just a solid brick and wood structure.

So we think that that, in fact, would make up for the compatibility setback. It is not located contiguous to a higher zoning district other than the fact that the 'LC' is there. Irregardless of that, we do feel that since this is located next to an arterial and an expressway, and it is also in conformance of the guidelines of the Comprehensive Plan. We think that that ought to be waived with this PUD.

Also, it says the use must be located contiguous to an arterial street and have direct access to the arterial street. We would be more than happy to have our access to Hillside; however, I can guarantee you that the Planning Department and Traffic Engineering has already said no. So what we have done is to limit the access to the first 80 feet west of Hillside, so our access will be as close to Hillside as possible. We feel like that is a good compromise in that respect. I know that Ms. Osborne-Howes talked about the traffic generation, and I think Lisa had projected that medical offices can produce about 36 trips per day per thousand square foot of office building. We think 20,000 square feet might be a little much for that area. I calculated about 16,000 square feet that can be put in that existing 1.07 acre site. At 36 trips per day per thousand, that is 576 trips. Once this site is filled, Mr. Ard has traffic counts at other locations. He gets about 30 trips a day with the storage warehouses. If this were developed with residential at four units per acre, you would be looking at 96 trips per day for just residential trips. So we are about one-third of the least development that could happen at this location.

I know traffic has been one of the biggest issues here. We feel like this is a good answer for this area here. I know that Mr. Ard has done some private counts along with traffic. His traffic element is approximately 60 percent automobile, 30 percent pick-up trucks, and about 10 percent van-type trucks. There are very few large vehicles that ever come to these sites, so we feel like it is still a residential type. I do know that 50 to 60 percent of the renters are ladies. I can think of several friends of mine that have spaces in antique malls and they buy things on the weekends at auctions and take it to the storage warehousing until they have time to catalog it, or repair it or whatever, and get it back out.

I know that Mr. Snyder would like to talk a little bit about the company, so I will shut off here unless you have some specific questions."

**BARFIELD** "Can you answer the question as to how many units we are talking about?"

**SNYDER** (From the audience) "Two hundred seventy-six actual spaces."

**WILEY** "There is a total not to exceed 41,620 square feet of building on the side."

**BARFIELD** "And how do you arrive at the number of visits that you will have?"

**WILEY** "The trips? Mr. Ard has 54 of these, total, in the Midwest, seven of which are located here in Wichita. They have done their own counts as to what traffic does come to these sites. Most recently, you approved one on Douglas and Maize Road. I think that was a little over a year ago. We do have some pictures we can show of that also. "

**GAROFALO** "Are there any other questions of Mr. Wiley?"

**WILEY** "What Gary (Snyder) is handing out is the Douglas and Maize Road project so you can kind of get a better feel for the quality. This site, in fact, will cost somewhere in the neighborhood of \$1.5 million to \$2 million to develop, as proposed."

**GARY SNYDER** "I am with Plaza Real Estate, agent for the applicant. Thank you for having us here today. I would like to touch on a couple of things. In today's paper, depending on which side of town paper you got, some of you may have seen the article this morning in the Neighbors section, particularly the President of the homeowners' association of the Mill Pond area, which is located in that picture, just to the north side of that. He stated that he was basically happy with the development. I can quote that. We did, in fact, do as we said. It doesn't have a lot of traffic and he was quite pleased that they allowed that. That was a case that was previously before you that was approved, and prior to that had about a 95 percent protest, and ended up with 95 percent in favor.

I would like to discuss a couple of things. Of course, Steve Clark and Bill Ard are on this project. They are local people. They still own the first storage units they had. They have other projects here in town. Their projects do, in fact, incorporate well in the neighborhood. I think some of the things they have tried to do here is to increase the landscape buffers, provide a facility and a building with the pitched roofs, the brick, the siding, no doors facing the interiors, and we even keep the trees that we can keep that are already there so that we can minimize any impact in that neighborhood.

Additionally, though, we also looked at this area as part of the redevelopment plan, which I think a lot of you probably approved on February 1 in that Redevelopment Task Force. This happens to lie in the district of the incentive targeted area. Some of the things that were obviously looked at when I presented this site to Mr. Ard as a possible area was tax abatements, financial assistance by the City to get developers to reinvest in the inner city, land assemblage, which was required in this case because additional land would have to be assembled with the existing zoning district in order to allow enough land for even an office building probably in future development along with some flexible construction codes in flexibilities and set backs. The last, of course, was a zone change. We felt like all of those items we weren't asking for, except the zone change and some setback considerations.

In an effort to bring some development into the inner city, we have often been accused of being the suburban sprawlers. We think that we have put our best foot forward in this project. The rendering in itself, we think, would detail what would be proposed on this particular site. But I think the positives for this particular neighborhood are, in fact, that the PUD provides them with something they can count on and they will count on it until it comes before this board or before them again. So, secondly, it does provide lower traffic, and that has been consistent with all of the studies, both nationally and with our in-house studies.

The impact of the area, I think, is a lower impact, because even a drivet or any type of office building probably has an architectural style that is less conducive to the neighborhood, because this looks like the garage or house next door. The development to the area, of course, has some economic impact. The project cost is about \$1.5 million to \$2 million. There are additional jobs that are created by that, so while we have on-site management, and we hope they will become neighbors at some point if this project is approved. We feel that this provides some of the things that we have looked for in the inner-city development plans and likewise fits with the Comprehensive Plan.

I can answer any questions, but I think in the final analysis, this complies with the inner-city development and the proposed target areas. It puts the City property back on the tax roles. It sends a message to developers to reinvest in the inner city, to take a look at those vacant parcels and how they can be used. It promotes the economic development that can happen within the inner city. We hope we are consistent, and think that the particular things we are asking for today are consistent with past BZA approvals and also with some zone changes that have happened within the area. I would be glad to answer any questions you have about this project, or even our other project."

**GAROFALO** "Are there any questions of Gary?"

**OSBORNE-HOWES** "I guess I've got a few. To start with, I have looked through the pictures here, and I think a year ago when you were talking about Douglas and Maize, this was passed out also or something fairly similar to this. Since you have some color renderings up there, I guess I am looking at this and those, and there area couple of things I don't see



here. One is the color of the garage doors and the other is the sign. While I don't know that that is real important, the color of the garage doors are a bright cobalt blue, not the subtle colors that I see here. The sign is a real bright yellow, neon-type of sign, and I just wonder if the neighbors have seen pictures of those when you are presenting the renderings and such to them."

**SNYDER** "We are going with a light blue in this particular project because that was discussed before, rather than the darker."

**OSBORNE-HOWES** "Light cobalt blue?"

**SNYDER** "Would you like a sample of it?"

**OSBORNE-HOWES** "I would like for the neighbors to at least see that. The reason I mentioned that is when you all came before and as I understand it, one of the reasons that the Planning Department is going along with this is 'because of your reputation'. I know, having had some contact with the neighbors who live adjacent to the one at Douglas and Maize, that some of them did have some concerns about the colors, particularly because they were promised that it would look like the neighborhood, and then we see the bright neon blue and the bright yellow sign.

I will tell you that the majority of the residents that are adjacent to that do not live in Mill Pond. I don't know whether they have been contacted, but they have had some concerns on this. I guess that was one of my questions. If you are going with a lighter color, it makes me feel like it is more conducive to being a part of the neighborhood.

And then another question that I had is on Page 4, under one of the recommendations for approval, under B, the 'portable signs, off-site signs, banners and the like are not permitted except for one banner sign for 30 days from the opening of the business'. I know that the location at Douglas and Maize had tons of signs out front and that there were complaints and that Central Inspection checked on that. Some of the neighbors talked to me about that. I just wondered if you plan to adhere to this 'B'."

**SNYDER** "That is why we put it in there for you."

**OSBORNE-HOWES** "Well, no, it was in the last one, too. That is what I am saying. You didn't do it."

**SNYDER** "Well, we are doing it now."

**OSBORNE-HOWES** "Well, we are talking reputation, and that is a concern that I have."

**Man from the audience** "I will guarantee that."

**SNYDER** "And we did change the doors per your request to take a look at that."

**OSBORNE-HOWES** "Just do that with all of your other signs."

**SNYDER** "There you go."

**OSBORNE-HOWES** "That is enough for now, I guess."

**GAROFALO** "Is there anyone else? I have questions, Gary. What makes this site conducive to storage facilities in your applicant's mind?"

**SNYDER** "I think there are probably a couple of things that make it so. Do you mean why it would be a marketable area for storage?"

**GAROFALO** "Yeah."

**SNYDER** "I think number one, it is because of the distance to other storage facilities, but more importantly, the immediate neighborhood. Probably 60 percent of our business will come within the first mile or mile and a half. Our users will be both business and residences who will be storing things. In this particular unit, over 25 percent of the units will be climate controlled in a climate controlled unit, you've got heating and air conditioning, and you will be storing things that are sensitive to hot and cold and those are typically fine furniture, expensive antiques, books, documents, records and things that businesses may have. When we did our market study, this in fact is a market area for that type of use."

**GAROFALO** "Are there any other questions of Gary? Thanks, Gary. Is there anybody else here to speak, besides the applicant or agent in approval of this application? Let me have a show of hands of people here who want to speak in opposition. We have 12 people raising their hands. Okay. We will hear from the first one then. State your name and address, please."

**TOM FOX** "I live at 250 South Erie, in the neighborhood. I would like to speak on behalf of the East Front Association. I believe you all said that you had received copies of a letter from our association indicating some of our objections, so I will try to be brief on that and just add to that letter.

The first point, I think, is that we do not believe that this is compatible to our neighborhood. It is an older neighborhood, as you know, one of the oldest neighborhoods in Wichita. Our Neighborhood Association is working to try to make it as safe and attractive as we can. As we said before, this may be a corny phrase, but we think it is a charming neighborhood. It still has a lot of the older residents, but there are a lot of younger people moving in to the 'fixer uppers'. There are lots of children living and playing in the area, so we are very concerned about that.

We circulated a list to see how people felt about this. We have a little over 350 of our residents who said they opposed these storage sheds. The concern is that although the sheds are probably very nice looking and would look really great in some kind of a commercial area, but they are incompatible, we believe, with our residential area. Even those current businesses that are part of our association along Douglas and along Hillside have signed this list. As we indicated, we certainly welcome a chance to improve the older neighborhoods, and I know that you all have put in some sidewalks and curbs and that sort of thing, and that is terrific. It would seem, however, that allowing industrial sprawl on our neighborhood boundaries is not really in keep in the neighborhood improvement. We have a problem with the sound barrier, as we have said. As you know, there are sound barriers to the east of us.

At the time this part of Kellogg was put in, there was no sound barrier, so we kind of depend on the trees, such as they are, to do that. You saw a lot of photos from Lisa, showing that the area is heavily greened. There are a lot of older trees there. It doesn't seem that knocking those down along that strip is consistent with the goal of trying to help us. It would further worsen, in our opinion, the Kellogg traffic noise problem. It is quite objectionable to the southern part of the neighborhood. If you are in the 400 block along any of those streets, it is very difficult to hear with all of the traffic noise along Kellogg. We have been trying to work with the City Park Department to put in some of those 100,000 trees that we were promised for next year.

We are concerned about safety. You have heard numerous people say that the traffic increase for the storage sheds would be no worse than and perhaps not as bad as an office building. But it is a little different story. The businesses on Hillside and Douglas are small businesses. They are part of the medical complex and they have access to Douglas or to Hillside. They have been good neighbors. They have worked with us. Traffic for the storage sheds will be 24 hours per day, seven days a week. That concerns us because that says that after hours, after school, on weekends when children are playing in the street or in their front yards, we will have trucks moving through our narrow streets. If you have been in the neighborhood, you know how narrow the streets are with a car parked on the other side, it is very difficult to get any vehicle, especially any kind of U-Haul deal, down through there.

In addition, that corner of Lewis and Lorraine, right next to the proposed entrance, is a school bus stop. We indicated in our letter that there would be some traffic congestion. It is suggested that perhaps that is not a problem, but we would submit that if you would notice if you come down Hillside just ready to make the on ramp to Kellogg, just 80 feet off of that is where the entrance to the storage sheds would be. There is a stoplight there and you can appreciate the jam that will occur in that area.

Furthermore, if you are coming from the south, you would have to go up past that, around the barriers that are on Hillside, through the residential area, through these narrow streets, and on down to the storage sheds. We think that is a problem. The developer said that they would indicate to their people that perhaps they could go down Kellogg to Oliver, up Oliver to Douglas, down Douglas to Hillside and back to get in. I think we all know that that is not very likely to happen.

Lisa has indicated the various things that need to be changed to be in accordance with your plan, but it appears to us that this really doesn't fit the Comprehensive Plan guidelines. As we look through that, it indicates commercial sites should limit activity from adversely impacting surrounding residential areas. In our opinion, this would have a definite impact on it.

It has been suggested that these storage sheds are for us, for the neighborhood. Three hundred-fifty people signed the list saying they don't need it, they don't want it. As you also heard, the neighborhood north of us passed unanimously that they don't need it and they don't want it. Our College Hill friends have been very concerned about it; the Sunnyside group just south had a similar passing of this kind of an ordinance.

We have quite a few elderly residents, as I indicated earlier. As we sent our list around, we interviewed a number of those. I would like to just briefly read one of these before I close here."

**GAROFALO** "Mr. Fox, your time is just about over. Do you need more time?"

**FOX** "Could I have 30 seconds?"

**MOTION:** That the speaker's time be extended.

**GAROFALO** moved, **BARFIELD** seconded the motion, and it carried unanimously.

**FOX** "We interviewed a number of the elderly residents there and one of these ladies said she couldn't make it today, but she would like to have me represent her, so we jotted down what she would have said if she would have been able to have been here.

'My name is Margaret Gabert. I am 91 years old as of July 22. I live in the 400 block of South Estelle, and have lived here for 56 years. I love this neighborhood, it is a nice neighborhood, and I hope it stays that way. Please don't allow them to build storage sheds in my neighborhood'. That is all I have, unless there are questions."

**MARNELL** "Mr. Fox, if the owner of this property would develop it other than this project, what kind of a project do you think would be suitable for that property?"

**FOX** "If it were some kind of a general office project like the current offices they have down on Hillside it would be terrific. We would welcome those people."

**MARNELL** "Wouldn't they have the same problem with this particular site with access through the neighborhood?"

**FOX** "If they would put the entrance where it is suggested here, just off of Hillside, the answer is yes, sir, they would."

**MICHAELIS** "Earlier, you were talking about traffic about being a concern. If we are looking at a usage here that is considerably less than a medical facility would be or another general office would be, you would be okay with the increased traffic?"

**FOX** "It is not necessarily the amount of traffic that bothers us as much as how it would have to go through there and the type of traffic. Our concern is truck traffic and after hours and on weekends with children playing in the area."

**MICHAELIS** "I concur with a statement you made that people are going to go the shortest way, whichever it is, regardless of what is in there."

**FOX** "That is absolutely correct, sir."

**BETH KING** "I live at 4222 East English, in the College Hill area. I am currently Vice President of the College Hill Neighborhood Association, but please be very clear that the College Hill Neighborhood Association has not met, so it has not considered this item. There has been no official posture by the College Hill Neighborhood Association."

The applicant was kind enough to come out and visit with members of the College Hill Neighborhood Association Board, and I can tell you from that informal meeting, of which we are very appreciative, no one on the College Hill Board felt very excited about the project. I am here to express to you my personal opinion.

I find this to be an inappropriate use of this particular property. I would remind you, as you all know better than I, that the first zoning district wherein storage units are permitted by right is General Commercial. General Office and General Commercial is a vast difference between the two of them. I personally welcome the development of this property and when the property is developed, there will be additional traffic and there will be additional noise. There will be additional problems with buffers, and perhaps the loss of trees, but I don't believe that this is an appropriate redevelopment or an appropriate use of the zoning as it is intended, either. As someone on a professional basis who was recently hired by the City of Wichita/Sedgwick County Community Housing Services and the Oak Lawn Improvement District Board, I will tell you that from my prospective, that I think is very important in this city, as we consider redevelopment and infill, is something very nebulous called image enhancement. I think there are areas in the City and in the County as well where inappropriate land uses have left us with a questionable feeling about whether or not we are doing something to enhance areas. In my opinion again, this is an inappropriate use of the property, particularly, and I realize it is subjective, because of the image enhancement that I think is appropriate along the Hillside corridor.

Because we have an arterial and an expressway, I understand that you might be a little more liberal with the development that you see possible here, but again in my opinion, this is an extreme alteration of the Zoning Code as it sits today, and the intent of the Code, and in my opinion, the intent of the long term Comprehensive Plan for this area, both East Front and College Hill, all surrounding neighborhoods. Any questions?"

**WARREN** "One use that is a permitted and allowed use that hasn't been discussed here is a hotel/motel. I see that as a greater threat than about anything that has been discussed here because of its accessibility to that Interstate. When we look at these different uses, we ought to consider that that is another one that may go in that location."

**GAROFALO** "Are there any questions of Mrs. King? Okay, thank you. We will hear from the next speaker."

**JUDY LOGANBILL** "Good afternoon. I live at 215 South Erie. I am quite a ways over, but this does impact me. I think you have heard over and over again that this neighborhood does not want the storage units. We have heard the developer say that the people that will use the storage facilities are coming from within a mile of the neighborhood. Every time that has been mentioned, every time I have been at one of these meetings, everybody's head shakes 'no, I don't have a need for storage units'.

Again, you have heard the concern with the traffic. The facilities that are on Hillside do have immediate access in there. I think of my eye doctor, and I don't think he has over 36 folks a day to come up and down. But what we are talking about is traffic that is going to go up to Waterman, go on Waterman and come down on Lorraine and again, these are very narrow streets, and they are brick, not the regular streets like now. So any type of damage that is done to these streets, the City is going to have to come in and repair and the streets are going to be repaired as they were before, so you are going to repair them with brick again in order to keep the flavor of our neighborhood.

This is an older neighborhood and the brick buildings and the wrought iron fences do not fit in with the neighborhood. If you travel in this neighborhood you are going to see wood frame buildings, you are going to see bungalows from the 1920s and the 1930s. You are going to see developed yards with full trees. You are not going to see a bunch of brick storage units in this neighborhood. I personally have a problem with the concept that in order to develop what is called 'inner-city neighborhoods'. We develop it with storage units. To me, that is not in the keeping of good inner-city development.

I, myself, would much rather see a playground of some sort. This is a neighborhood that is developing over the years. I have been there for 14 years and each year, my property values have increased. I, for one, am extremely pleased when my property value goes up, because to me, that says that the neighborhood is growing and is becoming a vibrant neighborhood. We have a lot of younger families that are coming into our neighborhoods and they have young children in the neighborhood. That is the kind of development that the East Front Neighborhood Association wishes to see in the neighborhood. Once again, we do not wish to see storage units. If I were a business owner and I were being confronted with an association that said 'we don't want it, we didn't ask for it'; I don't think that sets up a very good relationship between all of the parties. This is an area that needs to be developed for homeowners; it does not need to be developed for someone who is going to come in and put in storage units.

I did hear, and perhaps someone can answer the question about tax abatements. Are they suggesting that they would be given some tax abatements for several years in order to have this come in? Because if that is the case, I think we have a major problem, because then what does that do to help the tax rolls in the City? I think by offering a tax abatement, that defeats the whole purpose. Frankly, there are other areas in the City that are much better suited for this type of endeavor."

**GAROFALO** "Are there any questions of Mrs. Loganbill? Thank you. Next speaker."

**SUSANE GRUNING** "I live at 3010 Oakland, which is just kind of directly north of where you want to put the storage sheds. We first bought our home around nine years ago. We bought it because of the way the neighborhood looked. My one concern, living on Oakland, was the commercial property right behind my back yard. But with the full grown trees and the fence, the value of the property at the time, on which we have done a lot of renovation, compensated for that, knowing that that was all there was going to be. I am probably not going to say anything different than the rest of my neighbors are going to say or that you haven't already heard. I am a simple person. This is my home. You guys all have homes as well. This is our neighborhood. We don't need storage sheds. I think it was mentioned that probably 25% of us might use these storage sheds. I think that was in error. I think if we were asked, the answer would probably have been a blank 'no'.

Ms. King did bring up a really good issue that I thought of as well, as far as the redevelopment for the inner city. I don't consider that re-development. I don't see how that benefits us 10 years down the road. When we bought our house, and the last woman that spoke mentioned the increase of our property value, and we worked hard to make that happen. Don't take that away from us. Thank you."

**GAROFALO** "Any questions of the speaker? Thank you. Next speaker."

**RACHAEL MURPHY** "I live at 401 South Chautauqua. The reason we moved into our neighborhood is that we have small children and it is a very nice neighborhood for small children. There are lots of them on Chautauqua. There are also lots of them on Lorraine. We understand that these storage sheds are going to be really nice. The new ones that they showed you are really nice. But that is a new neighborhood. The streets are wider, the people are younger.

This is an older neighborhood that is safe. We had a representative from the Police Department come out and he told us that we have one of the safest neighborhoods in Wichita. We don't have much crime. We don't have many burglaries because we look out for each other. He said one of the first things that happens is that the burglaries increase because the person who is putting it in said that there would be antiques there, there is going to be nice furniture there, there are going to be computers there. There is going to be things that people are going to want and will come in and take their chances to take. That puts our children in danger, it puts our women in danger, and we don't want it. They said 60% comes from the neighborhood. We have done everything we can as simple people to show you that we don't want it. There are signs in our yards, we have gone on television, and we signed everything we can.

We have children that get off at bus stops in the areas where they want to bring in their big trucks. Please consider what this would do to your own families, your own homes and your own children. We aren't just faces, we are people who have worked hard to build what we have. Thank you."

**GAROFALO** "Are there any questions of Ms. Murphy? Thank you. Next speaker."

**DON MURPHY** "I live at 401 South Chautauqua. Right, as you can see, in the 'hot spot' of this area. We have two three-year-old daughters; we have a six-year-old daughter and an eight-year-old son. I understand the traffic being the major issue; it seems, on this. Even if these are not large trucks that are going through our neighborhood, even if they are light trucks, or they are passenger cars, I would like to submit to you that if one child, at any point in time in the evenings or on the weekend were to forget what their parents told them and dash out from amongst the parked cars and get hit by one of these vehicles, these storage sheds would not be worth that trouble.

**GAROFALO** "Are there any questions of Mr. Murphy? Thank you. Next speaker."

**CELIA GORLICH** "I live at 402 South Crestway in College Hill. I am also the president of the College Hill Neighborhood Association. I will be very brief. I am here mostly to support, along with Beth King, the East Front Uptown Neighborhood Association and everyone who will be directly impacted. College Hill will be impacted, of course, not quite as much as those neighborhoods, but you know us well for fighting for our neighborhood."

The one thing that no one has brought up is precedent. Bringing in a facility such as this in neighborhoods that are inner-city, urban neighborhoods, we get a lot of lip service in this town to not letting the inner-city or the urban neighborhood fall through the cracks. We feel that this would be allowing it to start something snowballing. Other developers, who might not be as thoughtful as the gentleman representing this storage facility, might come in and it would be a little bit easier, I think, the next time, to bring something into the neighborhood that we don't need or want. So we are going to stand our ground as much as we can. Thank you for listening to us."

**GAROFALO** "Are there any questions of the speaker? Thank you. Next speaker. "

**PHIL MURRAY** "I am really outside of the area as far as my residence, but I am the president of the Sunnyside Neighborhood Association, which is just across Kellogg to the south, adjoining East Front. I don't have any other points to bring out. I think they have all been eloquently stated, but I wanted you to know that the Sunnyside Neighborhood Association executive board voted unanimously against this project. We think they are wonderful sheds, but we feel that it is an intrusion, as everyone has already stated. That is really I wanted to present to you from the Sunnyside Neighborhood Association."

**GAROFALO** "Are there any questions of Mr. Murray? Thank you. Next speaker."

**PATRICE DOLENZ** "Hi. I am from the Uptown Neighborhood Association. We also agree that this is not an appropriate use for this neighborhood at this time. I also want to remind you that the D.A.B. voted last week to agree with the East Front that this is not an appropriate use of this area at this time."

I live at 405 N. Chautauqua, and I use this little strip a lot to go onto Kellogg. I guess my own personal feeling is that I have just always thought that it was a really nice greenway. I didn't know that it was owned and zoned for commercial at this time. I guess I have a problem with the City when they have surplus property that some of the surplus property that the City does have is well posted, like the area down on Topeka off Kellogg, and it seems that some of the property that the City has for sale is not posted with 'for sale, City of Wichita surplus property'. Possibly then the homeowners in this area or the people in the City of Wichita would have a chance to know that the property is up for sale and maybe they would buy it to have a buffer from Kellogg or a greenway, just another green area that would be nice and enhance their property."

I guess that is the one great problem I have. I don't know if maybe the City needs to develop a group that might oversee surplus property that the City has to sell, instead of like, all of a sudden, somebody approaches the City on the side that doesn't really want to live in this area, but wants to develop it and make money off of it. Maybe just a little tiny public notice in the paper that says that this is happening, and a lot of us miss it. Thank you."

**GAROFALO** "Are there any questions of the speaker? Thank you. Next speaker."

**BEVERLY AUDE** "I live at 341 South Hillside. I am one of those yellow squares on Hillside, and I know about the traffic. I know that during the day it is terrible. We have hard time even getting out of our driveway. I do know that on Saturdays and Sundays and at night, when all of those other offices go home, it is very peaceful. I really don't see that this is appropriate property for storage units. Couldn't we look at something that would beautify that, just like we beautified the section going on the Kellogg Interchange with the time clock and all of that? Why would we want to put storage units just a mile down from all of that beauty? Thank you."

**GAROFALO** "Are there any questions of the speaker? Thank you. Next speaker. Is there anyone else who wishes to speak on this? Seeing none, the applicant has two minutes for rebuttal."

**SNYDER** "I hope you can see, by the aerial photo, that we can blend with a neighborhood. Some of the things I think have been brought up, I would like to address briefly. We absolutely are not asking for a tax abatement. We are simply saying that there were some incentives in that program that were shown as incentives for developers. We are not asking for that, we simply want the zoning."

There are 32,000 to 34,000 people living in a one-mile area. That is one of the reasons we picked this area. We have 350 people who are choosing not to say that they support this, and I appreciate that. Fifty percent of our customers are women. Fifty to sixty percent of our traffic is cars; the other 30 percent are trucks. Other than that, we have about a 10 or 15 percent, which will probably be a moving van of some sort. Again, 50 percent of our people are women who come in. Our doors are very light, they are very quiet and they are made accessible to people to get in and out easily. We have 24-hour operation, but I would venture to say that there are office facilities that do that and there are medical facilities, minor emergency centers, and telemarketing systems. All of those can have 24-hour traffic."

One of the concerns is about the traffic in the neighborhood. People usually call us when they want to rent a storage facility. They first want to know what it costs, what sizes we have, and do we have any availability. When they do that,

we have worked with our managers extensively to turn around and let them know that there is a way to get there and what the best way is. We are on freeways in Dallas, Texas, and I will tell you that you have to go 2-3 miles to an exit ramp to get to us. We advise them how to get to us without going through the neighborhoods. They do do that, and people are accustomed to that.

Last but not least, I would like to say that our systems are secure, you can't get in without a credit card. We are video taped at all times, and if a door opens, we know it and we know which unit it is. We are probably one of the most secure things that is going to be in the area. Are there any questions?"

**BARFIELD** "Sir, in Texas, are your facilities located in residential neighborhoods?"

**SNYDER** "Yes, they are."

**BARFIELD** "Thank you. You mentioned that about 50 percent of your customers are women. As you have witnessed here today, 80 to 90 percent of the people that are against this that have spoken here are women. Your brochure says 'What will the neighbors think?' The neighbors have spoken. I think one of those speakers said that she didn't think that this would be an ideal situation to make for a good relationship between your client and the neighborhood when the feelings are as mixed as they are. Does that weigh any at all on your client's position?"

**SNYDER** "What we are doing here today is the same thing we have done in almost every single project we have put in in all 54 of them. We have neighbors and we offer to try to meet with them. I only got to meet with a very small amount of them. If we would have had a chance and we could have had dialog, we maybe could have had a few less neighbors with some concern here. I really feel like today their issues are not so much about what I am doing, they just don't want anything there. They don't want anything other than what it is already zoned for. I still give you that we are less impact to that neighborhood than what can be put on there today by right. I would hope you would take that into consideration, because I do think we would be less traffic.

I would tell you that a 91-year-old person could be a storage user tomorrow. I would hope not, but she could be. How does that happen? It happened to me. I didn't need a storage unit a few years ago, but when my mother passed away, I had all of my parents' stuff and I had to go put it in a storage unit. My daughter didn't need a storage unit three years ago, but when she had a car accident, I had to take her out of college and rent a storage unit. This is happening to all of us. We may not need a storage unit today, but I will bet every one of you, if the need arises, probably know where it is. Every one of you probably has one in mind, and it is going to be the closest one to your home. So that is where we want them. We want you to be able to get in and out of them. So all of our units are in residential areas. The old systems go into industrial areas. We don't do that. We don't build metal buildings, orange doors and brown buildings. We build a very expensive, residential-type building. That is what works. That is what works for us. We have been doing it for over 20 years, and we don't want to change."

**BARFIELD** "What are your hours of operation?"

**SNYDER** "We are open 24 hours. We have an on-site manager that allows them to get in."

**HENTZEN** "Gary, you indicated it was from \$1.5 to \$2 million investment. What would the yearly property taxes on that?"

**SNYDER** "Well, 30 percent of that times the mill levy. I really didn't figure that, Mr. Hentzen, but it is a pretty good number. I don't have a calculator with me, but being a commercial property, unlike a residential property, it is tacked at 30 percent. He says it would be \$40,000 to \$50,000, plus we just recently gave the City \$120,000 plus for the property. Mr. Chilton did that."

**MARNELL** "Mr. Snyder, do you know the percentage of use of this type of facility during what would be considered normal business hours, as opposed to overnight, maybe."

**SNYDER** "Probably 90 percent. This is during the day time."

**OSBORNE-HOWES** "I guess I have one question. Since you were kind enough to offer the color of the doors, I would like to have it entered into the record."

**SNYDER** "That would be great. The actual color is a light blue than the dark blue that we had on Maize Road ones. That was suggested earlier by the Planning Department that that might be a better color, so we agree to that."

**GAROFALO** "Are there any other questions? Thank you. We will take it back to the Commission now. What is the pleasure, if any?"

**OSBORNE-HOWES** "I don't know how I am going to vote yet. I am sure hoping for some discussion on his. I did want to ask one question and that is that someone commented that a hotel or motel could be there. I looked up some of the information and I don't think so. I don't think so. I don't think it is big enough and I think there are some other restrictions on that that probably wouldn't put a hotel or motel there. Marvin, am I right about that?"

**KROUT** "That is accurate. There are special conditions for a hotel in a General Office district and one of those is that it has to have direct access as well as frontage to an arterial street. The State of Kansas Transportation Department controls the Hillside access and will permit no access on Hillside."

**OSBORNE-HOWES** "And then I have another question to go along with that, just a real brief one. On Page 3 of the staff comments, you put an odd paragraph in here, and I guess I am going to ask what it is doing in here. It says that you had received calls from the adjacent neighborhood indicating the need for a park and open space in this area. Of course, I know we might be getting all of this big money for parks now, which I read about in the paper, but it shows no park within the boundaries of Hillside and the closest park is in College Hill, over half a mile away. What was the intent of that?"

**KROUT** "We were just trying to provide you with all of the information available about this case. One of the issues that was brought up was that this land was in public ownership, and as you heard this afternoon, some people think that maybe that is the way it should stay."

**OSBORNE-HOWES** "Okay, I was just curious."

**BARFIELD** "I have a question for Marvin. You stated that in General Office a motel could not be built, but it is my understanding that this is not zoned property."

**KROUT** "If that tract that is zoned office had frontage and access to Hillside, then a motel could be built, but it can't because it doesn't have direct frontage or access."

**GAROFALO** "And it is not likely to get it."

**KROUT** "It is not likely to get it."

**WARREN** "But it is not impossible."

**PLATT** "This is kind of an interesting case, I think it would almost be nice to have it on film. I think we have what I think was a very carefully prepared and developed proposal requiring a zone change. We have a very organized opposition, which is exactly the sort of thing that makes an interesting case in terms of a planning decision."

I want to compliment the applicant on doing a good job of preparing it, and I want to compliment the various neighborhood associations that were represented here today. I think it is really superb that we have a situation where neighborhood associations do get together and support each other, which seems to me to be one of the important parts of the planning process works, so it is kind of a good case. It seems to me that we could probably simplify the whole process and speed it up a little bit if we stop and remember that not too long ago, we approved some storage units that were separated from a neighborhood that was as strongly opposed to them as this group is, but they were separated by a railroad track. There were no storage units that in any way touched the neighborhood properties. It was absolutely impossible to get to the storage units by going through the neighborhood. You had to use the arterial street.

The City Council sent that back to us and said very firmly, 'you can't treat neighborhoods this way'. So, it seems to me that we already have gotten the answer to this from the City Council that this is not a proper way to treat a neighborhood. "

**MOTION:** I move that we recommend to the governing body that the request be denied.

**PLATT** moved, **BARFIELD** seconded the motion.

**HENTZEN** "I really wanted to make a statement before he made that motion, but now I will be forced to make a substitute motion."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is predominately developed with single-family residential uses. The most directly impacted properties by the proposed development are single-family homes located west and north of the site. South and east of the subject area is the Kellogg-Hillside interchange. There is a dental office at the northeast corner of Lewis and Hillside, and single-family homes beyond that to the east. The suitability of the subject property for the uses to which it has been restricted: A portion of this property is zoned "GO" General Office. Offices could be developed on the site, however the site has remained undeveloped as this use since it was re-zoned in 1977. The vacant right-of-way is surplus and would not be considered a buildable lot if not used in conjunction with the adjacent property. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental effects on properties from lighting, noise, and other factors should be mitigated by the requirements of the Unified Zoning Code and the Landscape Ordinance and the recommended conditions of approval for the PUD zoning. The intended use is a low traffic generator with a manager that resides on the premises. Conformance of the

requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Low-Density Residential" and "Office" development. Although the self-service storage warehouse use is a commercial use, the Unified Zoning Code places conditions on this type of use when located in a "General Office" zoning district so that impacts of the use on the surrounding neighborhood are minimized. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities.) That the Planning Commission recommend to the governing body that the application be approved, subject to the following:

1. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body. Any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
2. The third paragraph of General Provision #4-A shall be revised to read, "Portable signs, off-site signs, banners, string pennants and the like shall not be permitted, except for a banner sign permitted for 30 days from the opening of business."
3. General Provision #4-B shall be revised to read, "Building signs shall be permitted on the North, East and South elevations of Building "A". Said building signs shall not exceed 50 square feet, use individual letters, and be similar to the building signage shown in Exhibit "A"."
4. A General Provision shall be added that reads, "Outdoor speakers and sound amplification systems shall not be permitted on the site."
5. A General Provision shall be added that reads, "A resident manager shall be required on the site and shall be responsible for maintaining the operation of the facility in conformance with the conditions of approval."
6. The applicant shall submit 4 revised copies of the PUD to the Metropolitan Area Planning Department within 30 days after approval of this application by the Governing Body, or the request shall be considered denied and closed."

**HENTZEN** moved, **WARREN** seconded the motion.

**WARREN** "I would also like to speak to this. I don't think there is anybody here, again, that would say that we are not sensitive to the concerns of these people out here in the audience, but the thing that I am hearing is two or three things that are of concern. The traffic, we've heard of that. We have 'GO' zoning out there now, and if it isn't this use, it could be, I think, a fairly major medical facility. We are not talking about some little doctor's office. This thing has enough land associated with it to have a pretty substantial medical facility out there generating traffic again, possibly 24 hours a day and 7 days a week. And, we could have a pretty major office complex there.

It has been suggested that this be a park, or this be some other use, but that is simply not a practical application of this. These people have money in this land. One thing we know we can't do, and that is to deny them all viable economic use, and that is the words of the Supreme Court. We can't do that. We haven't done that, and we are not trying to do that. They already have the zoning. So we are talking about the lesser of the evils. And in my opinion, this is the lesser of evils as it would relate to traffic and interference of that neighborhood that a fairly major medical facility out there or a fairly major office complex, and I haven't discounted the possibility of getting a hotel/motel in that location. I think it is very possible. So I will support it just on the basis that it is the lesser of evils."

**BARFIELD** "I don't have anything against storage facilities. I think that from everything I have seen, these people will probably build a very nice looking unit. I do have a problem, though, with the area that they want to build this in. Also, it has been mentioned by the agent for the applicant about the economic development issue. I don't see any economic development, but I do think that if we were talking about a major medical facility or a hotel, or even a small doctor's office, it would offer more economic development than what this proposal does as we see it today.

So, while I am not against storage units, I am against a storage unit in this particular location because I don't feel that that this makes for the best use of that property."

**HENTZEN** "I offered this motion based on these things: In the past year or so, we have heard more about infill development than almost any other item. In fact, I heard a new term today, not urban sprawl, but industrial sprawl. I don't know what that means, but here is an attempt to build, in what many of us feel is an infill area. One of my questions earlier was what are the taxes going to be when this thing is done? We heard that they will spend \$1.5 million to \$2 million, and the property taxes will be somewhere near \$50,000 a year. I am just going to guess that those three houses



that are on this owner's property now, probably that property doesn't have to pay much over \$3,000 to \$5,000 per year. Now, there are a lot of things that need to be done in this City as regards infrastructure in older neighborhoods. In fact, I think there was a big article in the paper yesterday or today about how many million dollars it is going to take to fix the sewer lines.

But just on a business basis, you've got to let somebody develop this land to pay the bill to do the things that this City needs. Now, it has been sitting there for 22 to 23 years and nothing has happened. Playground and park area has been mentioned, and I haven't heard or seen anything that the City Council has discussed about this particular spot of land as going to be a park or a playground or something. If that is what they want, all they have to do is buy it from the owner and let's do it. You know, in regards to the type of idea that they have presented, there is no air pollution, there is no ground pollution, there is no lighting all night that will keep the neighborhood all lit up. There is really no noise. We heard a pretty good analysis that there is not a serious traffic problem. So, I don't know what would be better to be put there and pay \$50,000 a year in taxes. And you know what? The staff recommended approval, and I take great pride in supporting their decision."

**OSBORNE-HOWES** "First, I would like to ask Mr. Hentzen as part of his substitute motion also allow that the applicant offered a lighter color of door?"

**HENTZEN** "No, I don't think we ought to be deciding the color of the door."

**OSBORNE-HOWES** "Normally, I wouldn't either, except that this particular applicant has made such a case, even in the past of wanting to fit in with the neighborhood, and showing designs that two other neighborhoods when they have made the same case. That is the reason why."

**HENTZEN** "What they have showed me today and what they have said today satisfies any requirement I have on what it is going to look like. I don't think we ought to be picking the colors of the doors."

**KROUT** "Susan, I think you can consider that they have amended their application and that is part of what is on the table today."

**OSBORNE-HOWES** "Well, I guess part of the reason for that is that I have had so many phone calls from the other neighbors of the other places that I guess I would like to make a comment. I have been going back and forth on this one, not really sure how I would be voting, but a couple of things have probably swayed it for me.

One is when we talk about development and we talk about infill that is suitable, I must say that the true measure of economic development is not just the investment in the land and the use of that land, but also the employment that goes along with that. There is not going to be much additional employment on this, just as a side comment.

I guess one of my concerns is that if you are talking about infill development in a sensitive area, particularly an older neighborhood, I think you really have to question the kinds of development that go in there. I think that if this were truly designed to meet the needs of the local neighborhoods, that locating it near to a major arterial probably wouldn't be as important. I am guessing that part of the traffic coming into this facility will be from outside of the neighborhood as opposed to inside of the neighborhood. I am also very concerned that anything that gets developed along here is not accessing onto Hillside, but rather accessing onto a local and narrow street.

Another thing that did it for me, too, is looking through the current uses allowed for General Office. I must say that not only do I not see them as particularly intensive, but that the neighbors also don't seem to see that. This isn't an area that has been vacant and not developed for a variety of reasons for 20 some years, it is actually a fairly unusual kind of thing.

And lastly, I don't see this as anything major. I don't think it could be developed into a major medical facility. There is no way that I can see a hotel or motel being on there. So I guess because of those reasons, even though I think that the applicant has done a good job of developing the concept, this is nothing against the applicant, but I will not support the motion."

**MOTION:** That the question be called.

**MICHAELIS** moved, **WARREN** seconded the motion, and it carried unanimously (12-0).

**GAROFALO** "Let's have a roll call vote on the substitute motion to approve."

**VOTE ON THE SUBSTITUTE MOTION:** The motion carried with 8 votes in favor (Marnell, Warren, Warner, Carraher, Lopez, Hentzen, Michaelis and McKay) and 4 in opposition (Osborne-Howes, Platt, Barfield and Garofalo). Johnson was not present.

**KROUT** "This case does go on to the City Council. The Council's policy is not to have an additional public hearing, but anyone who spoke at this meeting and signed up will receive a notice of when that meeting will be scheduled.

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McKay left the meeting at 3:40 p.m.

5. **CON2000-00025** - Judges 331 Company, Tulsa, OK (owner), Jamed G. Razook and Lindy Andeel (applicants) and Kim Edgington, Austin Miller (agent) request a Conditional Use to allow the sale of used cars on property described as:

Odd Lots 1 through 23, inclusive, on Meridian, Garfield Park Addition to Wichita, Kansas, Sedgwick County, Kansas, except the east 10 feet for street. Located on the southwest corner of Harry and Meridian (1611 South Meridian).

**BARRY CARROLL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicants are requesting a Conditional Use to permit used car sales on a platted one-acre tract of land. They indicate a desire to offer up to a maximum of 50 vehicles for sale. This property is zoned "LC" Limited Commercial and is located at the southwest corner of Meridian and Harry Streets (see map). Access to the site is from Meridian and from Harry. There was a convenient store at this location but has been vacant for over two years.

The property north of the application is a transmission shop and zoned "LC" Limited Commercial, the property to the south is a vacant lot and is zoned "LC" Limited Commercial; to the east is a bar that is zoned "LC" Limited Commercial; to the west is a gravel alley and there are houses zoned "TF-3" Two-Family District.

Outdoor vehicle and equipment sales in the "LC," Limited Commercial, district is permitted if: the location is contiguous to a major street; visual screening of areas contiguous to residential zoning is provided; storage and display areas are paved with concrete, asphalt or other comparable material; outdoor lighting shall employ cut-off luminaires mounted at a height not exceeding one-half the distance from the neighboring lot unless evidence is shown that the light source is not visible from the neighboring lot; no noise amplification system within 500 feet of the site; no repair work maybe conducted except in an enclosed building; and no body or fender work is permitted.

Code required parking is at the rate of one space per 500 square feet of building area, plus two spaces for the first 10,000 square feet of area used for sales, display and storage, plus one space per 10,000 square feet thereafter. This site contains approximately 40,650 square feet of sales, display and storage area and approximately 2,554 square feet of building area. Six parking spaces would be required for the office and two for sales customers. A total of eight parking spaces would be required (see site plan). There are no used car sales lots in the general vicinity.

**CASE HISTORY:** The current site was platted as the Garfield Park Addition in 1912.

**ADJACENT ZONING AND LAND USE:**

NORTH: "LC" Limited Commercial	Commercial Business
EAST: "LC" Limited Commercial	Commercial Business
SOUTH: "LC" Limited Commercial	Vacant Lot & Business
WEST: "TF-3" Two-Family District	Residential Houses

**PUBLIC SERVICES:** Meridian is a four-lane arterial street with estimated traffic volumes of 14,984 (ADT) trips per day. Water/sewer and other municipal services are provided to the site.

**CONFORMANCE TO PLANS/POLICIES:** The Area Treatment Classification Maps of the Comprehensive Plan identifies this location as a "conservation" area. These areas, which are basically, sound physically and viable economically, would be protected from decline by policies which would ensure population stability, and maintain levels of investments, market strength, and environmental quality and neighborhood character. These areas cover a large portion of Wichita, including not only areas with no apparent threats to stability, but also areas where future viability may be questionable because of encroaching land uses or other impacts. Treatment policies and actions would include continuing strict code enforcement, ongoing maintenance of community facilities and prevention of land use conflicts.

The Land Use Guide of the Comprehensive Plan identifies this property as "commercial." The plan contains an objective which states: "Confine highway-oriented, auto-related and non-retail commercial uses to a limited number of urban areas, such as portions of Kellogg, Broadway, the CBD fringe, and other similar areas.

**RECOMMENDATION:** Based on the information available prior to the public hearing, MAPD staff recommends the application be DENIED. The Comprehensive Plan does not indicate that a used car lot would be appropriate for this area, there are not any other vehicle sales lots existing or allowed by zoning in the general vicinity. The commercial uses along this portion of Meridian are neighborhood serving and do not involve the outdoor display storage associated with vehicle sales.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is zoned "LC," Limited Commercial. The "LC" district does not permit auto sales without a Conditional Use permit. The site has commercial uses on three

sides and a residential use on one side. These two districts do not permit extensive outside display. The area is developed predominantly with lower intensity, small-scale neighborhood serving retail and service commercial uses. A car sales lot would not be consistent with the character and type of uses located at this site.

2. The suitability of the subject property for the uses to which it has been restricted: The "LC" district permits a wide range of retail sales and less intense uses. It seems plausible that a use could be found for this site that is permitted by the current zoning. Meridian carries a high enough volume of traffic and is of a sufficient size to be able to accommodate most smaller scale retail sales uses, office or neighborhood oriented service tenants.
3. Extent to which removal of the restrictions will detrimentally affect nearby property. Outdoor storage and display of vehicles is not consistent with the type of development existing at this intersection. Approval of this request will most likely open other sites nearby for additional vehicle sales lots and other "heavier" commercial uses. Meridian is deserving of some level of protection against outside display and storage uses, otherwise it will begin to take on a South Broadway appearance.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies this property as "commercial." The plan contains an objective which states: "Confine highway-oriented, auto-related and non-retail commercial uses to a limited number of urban areas, such as portions of Kellogg, Broadway, the CBD fringe, and other similar areas." The Plan also recommends special attention to the visual quality of key major arterials and Meridian is identified as one of these roadways. The proposed use does not match these criteria. This area has no used car lots and if approved could be precedent setting for the neighborhood.
5. Impact of the proposed development on community facilities: Municipal services are available to serve this site, and the proposed use should not generate any more traffic than other permitted uses.

If, however, the Planning Commission believes this is an appropriate use, staff recommends approval be subject to the following conditions:

1. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of "passenger vehicles" as defined in the UZC. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.
2. The vehicle sales lot shall be developed in accordance with a revised site plan submitted within 60 days and approved by the Planning Director. The revised plan will stipulate the closing of the drive on Meridian closest to the intersection and show the location for all spaces that will be used for customer parking and the storage or display of vehicles. The required customer and employee parking shall not be used for the display of vehicles.
3. The applicant shall comply with the street yard landscaping requirements of Landscape Ordinance.
4. All parking, storage and display areas paved with concrete, asphalt or similar surface. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way.
5. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons.
6. There shall be no use of elevated platforms for the display of vehicles.
7. No amplification system shall be permitted.
8. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
9. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with.
10. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

**CARRAHER** "I will abstain from voting on this item as I sat on the District Advisory Board."

**GAROFALO** "Okay."

**CARROLL** "This request is located on a one-acre platted parcel of land at the southwest corner of Harry and Meridian. The proposed use is for used car sales. There is a vacant lot and a paint business to the south; to the north is a transmission shop, north of Harry. To the east is a soon to be opened neighborhood bar that is currently vacant. To the southeast is a little strip center and an import car restoration business. There is a vacant motel to the northeast, and to the west is a residential area zoned 'TF-3'.

The applicants are requesting this Conditional Use to permit a used car lot for a maximum of up to 50 vehicles for sale. The property is currently zoned 'LC' Limited Commercial. Currently there are no car sales lots in the general area. Based upon the Land Use Guide of the Comprehensive Plan, staff is recommending that this be denied. The Comprehensive Plan does not indicate that a used car lot would be appropriate for this area. The businesses along there do not involve outdoor storage and staff feels like approval of this request would likely be precedent setting for additional car sales lots and other heavier uses in the neighborhood; however, should you deem this appropriate, we have set forth 11 conditions, found on Pages 4 and 5.

As mentioned earlier, the District Advisory Board for District IV, the southwest district, considered this item on July 19. The applicant and agents were there. Following their discussion, the District Advisory Board voted 6-0 to recommend approval, subject to conditions. I think you were provided a memo that summarized the meeting. Basically, the members expressed that the sales should be limited to passenger vehicles as defined by the Code. There should be no sales of RVs, or big trucks and that any automobile repairs should occur within the building. The applicant shall erect a 6-foot wooden fence or a solid row of evergreens along the western property line, and that lighting should be shielded from the residences.

For this particular case, there were no citizens to speak either in opposition or in approval at the District Advisory Board meeting. I will try to respond to any questions that you might have."

**BARFIELD** "Could you go back to the site that you first identified as being the bar?"

**CARROLL** "Okay. And I neglected to say that that has been vacant now for two years. It was a former convenience store."

**MICHAELIS** "Barry, for my own information, I am really curious...a few weeks ago, we sat here and we looked at a car lot in the middle of a block, primarily in a residential area with no ingress and no egress, and staff was in support of that. Now this one is pretty much in a commercial type area, pretty wide open; everything around it is of a similar use or worse. What is the difference in those two?"

**CARROLL** "That is a good question. Our Comprehensive Plan talks about confining highway oriented uses, outdoor sales, non-retail commercial uses to highway corridors, established urban areas, for example Kellogg, Broadway and the Central Business District."

**MICHAELIS** "There is another part of that paragraph, I think, that you aren't reading."

**CARROLL** "This is from Additional Commercial Location Guidelines, No. 6. I will quote that to you. It says 'commercial uses that are not located in planned centers or nodes, including large, free-standing buildings, auto related and non-retail uses should be guided to other appropriate areas, such as the CBD fringe, segments of Kellogg, established areas of similar development, areas where traffic patterns surrounding land uses and utilities can support such development'."

**MICHAELIS** "It seems to me that that would definitely fit in there, based on what you just read."

**KROUT** "Commissioners, maybe we need to revisit that language. That came up at the D.A.B. meeting, it was represented by the applicant that this met the criteria because it had a nice high traffic count on Meridian, and if the high traffic count is all you need to put in a car lot, then we certainly wouldn't have put in the other strategy that doesn't say anything about that. I think just having utilities and being on a street with a high traffic count is not the intent. I know we have looked at the wording of that a lot and maybe unintentionally we didn't do what I thought the Commission had intended to do. I think it would render it meaningless to say that just because you are on a high traffic count street that a car lot is an acceptable use. I think Dave Barber, who was working with you on those objectives provided you a memo. Was that sent out with the staff report or sent later?"

**CARROLL** "I don't think it was. The last phrase of the guidelines 'in areas where traffic patterns surrounding land uses and utilities can support such development' was not revised in the 1999 plan update. This phrase seems to cause some confusion."

**KROUT** "Maybe this is an area where we ought to revisit. It does seem to me that in our discussions about car lots, it wasn't the intent of the Commission to say that if there was a high traffic count that it is an okay use."

**BARFIELD** "It does appear to me though, that the intent of staff is to say that basically what we want to do is cluster all of these car lots together because the first thing out of his mouth was the fact that there are no other car lots in the area. That is not the first time that I have heard that comment. I think in the last two weeks, we have looked at four car lots. The one on Broadway, the staff recommended approval on because, I am assuming, of the fact that there are other car lots along Broadway. We looked at two others, one on West 13<sup>th</sup> Street and the first thing was said was that there are no other car lots in that area. Then here today, we are talking about the fact that there are no other car lots in that area."

I think you can look, and the photos show it here that to the immediate north there is a rather large auto repair shop. I don't really see the big difference and I think that this area is conducive to this application."

**GAROFALO** "Okay, if we have questions of the staff, that would be fine right now."

**OSBORNE-HOWES** "I just have one question. I am looking at No. 5 of the conditions of approval. It says that 'except that fixed banners, affixed to light poles and not exceeding 50 square feet of material per light pole, will be permitted'. How many of those banners would be allowed? How many light poles?"

**CARROLL** "I spoke with the Office of Central Inspection staff today about that. As I understand it, there is no language specifically in the Code about this. Some of these agreements were made with the used car sales along Kellogg, so I guess it would be open to some discussion."

**OSBORNE-HOWES** "You know, I guess I can understand that for huge car lots along Kellogg for something like this, but for small car lots to have basically what would amount to like a 5 x 10 permanent banner hanging from a light pole, depending on how many light poles, that could just almost hide other signs in the area. I mean I just don't see how that does anybody any good at all. I am just curious about that."

**GAROFALO** "Are there any other questions? No? Before we go on with the public hearing, has anyone been contacted on this? Anyone had an outside contact on this case?"

**OSBORNE-HOWES** "Nobody has?"

**GAROFALO** "Apparently not."

**MICHAELIS** "Are you talking about from anyone? I was contacted by the applicant, yes."

**GAROFALO** "Okay. Anyone else? Okay, just the one. Okay then, we will hear from the applicant."

**KROUT** "And what was the nature of that?"

**MICHAELIS** "Just discussing the project."

**KROUT** "Was there any information that you learned, outside of what you were sent?"

**MICHAELIS** "Just what I have right here."

**KROUT** "Okay."

**KIM EDGINGTON** "I am with Austin Miller, here representing the applicant. The first thing I would like to discuss or point out is that with the locational guidelines, we are not looking at just the traffic counts in this area and the fact that utilities were present, but also pointed out the surrounding land uses and how this is a very mixed-use neighborhood or area."

As you saw from the slides, there is a transmission shop to the north of this that has a significant amount of outdoor storage, a fairly sizeable number of cars being stored on that lot. The site has been vacant for over two years, and we are of the opinion that a business operating at that site is far more preferable to the state in which it is existing right now. There are a number of different uses in this area. There is a large industrial park to the east of here and also not far to the south. There is a salvage yard within one block of where this site is located.

There were some statements made in the staff report regarding the area treatment classification map, which is used to classify residential areas, and we feel that this is not quite an equitable comparison for this location since it is a commercial site. There are a number of residences to the west of this location. They were all notified on the ownership list and we have not been contacted as agent by any of those, nor did they attend the District Advisory Board meeting.

Just to reiterate, we didn't look at just the traffic count supporting this; however there are much higher traffic counts at this intersection than at several of the other areas that have been recently approved for a Conditional Use. We do meet all of the standards for outdoor equipment and vehicle sales in the Limited Commercial district, including location on a major arterial, visual screening, which we have agreed to along the west property line through either trees or fencing. All storage areas will be paved and lighting standards will be complied with, also noise standards, no outdoor repair work.

There is one condition in the staff report that I would like to address as far as the closing of the access along Harry. We would be more than willing to close the north entrance along Meridian, but feel that to maintain traffic flow through that site, that since that driveway is existing and if there were a convenience store on this lot, or a food store, a significantly higher amount of traffic would be generated than what we are proposing here through vehicle car sales, so we would ask that we could retain that opening along Harry Street since it is a major arterial there. I would be happy to answer any questions."

**HENTZEN** "Kim what requirement that was listed were you referring to? There are 5 of them. Which one were you talking about?"

**EDGINGTON** "No. 2."

**WARREN** "You are in agreement to closing up Meridian and leave Harry open?"

**EDGINGTON** "Right. The north entrance on Meridian so there would only be one entrance along Meridian."

**WARREN** "Okay."

**BARFIELD** "What alterations are you planning to make to that building?"

**EDGINGTON** "Very minor, just some cosmetic changes to the building. It will be cleaned up a lot. The applicant is also here and he can address some of the issues as far as how they plan on developing this site."

**BARFIELD** "You made reference to no outside repairs. I didn't know if you were going to have an indoor repair area."

**EDGINGTON** "Right now there is no intention to, but if there were they would have to be inside that building. There would have to be a service bay created. It could not be done outdoors."

**KROUT** "At the D.A.B. meeting that I attended, the D.A.B., in their recommendation said that they recommended that have only passenger vehicles, and they also dealt with the screening requirement on the west side and said that staff had recommended in the staff report a screening fence and evergreens and the D.A.B. changed it to a screening fence or evergreens. You want to tell the Commission where you are on those two issues?"

**EDGINGTON** "As far as which one we prefer?"

**KROUT** "Is the limitation on passenger vehicles acceptable to the applicant, and do you prefer the D.A.B.'s recommendation on the screening?"

**EDGINGTON** "I don't know that the applicant intends to be selling recreational vehicles and buses. We just want to make sure that we can include Sport Utility Vehicles and pick-up trucks, but other than that, we have no problem with limiting that."

As far as the screening, right now, there are, and that is another issue that we probably should address because there are wood fences along that entire property to the west. All of the residential homes have wood fences, so if you feel it is appropriate to have two wood fences along that alley as a conditional of approval, we would agree to that."

**WARREN** "I haven't read that Zoning Code. Does saying passenger vehicles allow S.U.V.s and light pick-ups?"

**KROUT** "Yes."

**OSBORNE-HOWES** "Let me just double check to continue on with that. Does the Zoning Code require a wood fence or landscaping?"

**KROUT** "The Zoning Code would require a wood fence; although if there is a screening fence up that provides solid screening that the residents have put up, then that can serve as the fence as long as it stays up."

The landscape requirement would normally be only one tree for every 40 feet and it wouldn't be evergreen but in this case, because the building is already there, the improvement is already there, that they wouldn't be doing something that would normally trigger any landscape requirements."

**OSBORNE-HOWES** "So Kim, rather than talk about two wood fences, I suppose that you would be agreeing to is that if one of those fences came down for some reason, you would have to put in another fence."

**EDGINGTON** "Yes, we would agree to that. A significant portion of the property, the building itself is a screen from the neighbors to the west."

**GAROFALO** "Are there any other questions of Kim?"

**BARFIELD** "Are you saying now that the property now has three access points? Two on Meridian?"

**EDGINGTON** "Right."

**LOPEZ** "Our comments refer to the site plan, but I don't have a site plan in my packet, does anyone else?"

**GAROFALO** "We don't have it."

**LOPEZ** "It says 'see site plan on the parking arrangements'. And then, what is the frontage on Meridian? How many feet is that?"

**EDGINGTON** "Three hundred feet."

**LOPEZ** "The frontage on Meridian?"

**EDGINGTON** "Yes."

**OSBORNE-HOWES** "I thought we were really starting to look at site plans for used car lots. Why don't we have one?"

**EDGINGTON** "We did submit a site plan with the application. The staff report that went out to the D.A.B. had the site plan attached."

**KROUT** "Have you revised the site plan? Because the site plan is really only a plan that shows what the existing conditions are."

**EDGINGTON** "We submitted two site plans. We submitted an existing site plan and a proposed site plan."

**KROUT** "Okay. Well, what we sent out to the D.A.B. apparently was just the existing because I haven't seen a proposed site plan. That is why our staff recommendations say 'a revised site plan'."

**EDGINGTON** "The site plan that I got attached to the staff report at the D.A.B. is the existing site plan."

**GAROFALO** "Are you in agreement with all of these conditions?"

**EDGINGTON** "With the exception of closing the entrance on Harry. And I guess to reword the requirement for a wood fence along the western property line to read that at such time as the solid screening wall no longer exists on the opposite side of the alley that we would agree to erect a wooden fence at that time."

**MICHAELIS** "Marvin, if that is a Code Requirement, do we need to have that in there?"

**KROUT** "Well, the original staff recommendation, I think, was a fence plus landscaping, so we are saying even if there is a fence up by the residences that we would like to see some landscaping along the west side, even though the Landscape Ordinance would trigger it. I think that is what you need to make up your mind about is do you want any landscaping besides what the Code already requires?"

**MICHAELIS** "I guess the question I am asking is since you said that the Code says that if part of this fence comes down, they have to put one up, does that need to be in here at all?"

**KROUT** "No, it doesn't need to be in there."

**MICHAELIS** "Okay, that is what I asked."

**HENTZEN** "Because it is on private property now, and we don't have the authority to do anything on private property."

**BARFIELD** "Doesn't the west side abut an alley?"

**KROUT** "Yes, there is an alley back there. Trees usually grow taller than screening fences."

**GAROFALO** "Is there anyone else to speak in approval of this application? Is there anyone to speak in opposition? Seeing none, we will take it back to the Commission."

**OSBORNE-HOWES** "Are we going to get to look at a site plan?"

**KROUT** "Well, the staff report says 'subject to a revised site plan'. The applicant apparently did submit one, but we didn't review it. I think they have met their requirement and I hope that you can trust us to review and approve that revised plan without having to look at it."

**OSBORNE-HOWES** "I am not arguing with that, but it just seems like the last couple of times that people have made the comment that we really want to start looking at them."

**GAROFALO** "Where do we stand on this drive on Harry Street?"

**HENTZEN** "That will be part of the motion and I am ready to make a motion."

**BARFIELD** "Can I ask one more question before we do that? What is the traffic count on Harry? Do we have that?"

**CARROLL** "Yes. 14,984 average daily trips. That is Meridian, sorry."

**BARFIELD** "I thought that sounded kind of heavy for Harry."

**CARROLL** "Kim has the one on Harry."

**EDGINGTON** "The traffic count is 14,984 on Meridian, south of Harry and 13,898 north of Harry. On Harry, west of Meridian 5,042; east of Meridian 3,746."

**GAROFALO** "Okay."

**MOTION:**

Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The application area is zoned "LC," Limited Commercial. The "LC" district does not permit auto sales without a Conditional Use permit. The site has commercial uses on three sides and a residential use on one side. These two districts do not permit extensive outside display. The area is developed predominantly with lower intensity, small-scale neighborhood serving retail and service commercial uses. A car sales lot would not be consistent with the character and type of uses located at this site. The suitability of the subject property for the uses to which it has been restricted: The "LC" district permits a wide range of retail sales and less intense uses. It seems plausible that a use could be found for this site that is permitted by the current zoning. Meridian carries a high enough volume of traffic and is of a sufficient size to be able to accommodate most smaller scale retail sales uses, office or neighborhood oriented service tenants. Extent to which removal of the restrictions will detrimentally affect nearby property. Outdoor storage and display of vehicles is not consistent with the type of development existing at this intersection. Approval of this request will most likely open other sites nearby for additional vehicle sales lots and other "heavier" commercial uses. Meridian is deserving of some level of protection against outside display and storage uses, otherwise it will begin to take on a South Broadway appearance. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies this property as "commercial." The plan contains an objective which states: "Confine highway-oriented, auto-related and non-retail commercial uses to a limited number of urban areas, such as portions of Kellogg, Broadway, the CBD fringe, and other similar areas." The Plan also recommends special attention to the visual quality of key major arterials and Meridian is identified as one of these roadways. The proposed use does not match these criteria. This area has no used car lots and if approved could be precedent setting for the neighborhood. Impact of the proposed development on community facilities: Municipal services are available to serve this site, and the proposed use should not generate any more traffic than other permitted uses.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of "passenger vehicles" as defined in the UZC. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.
2. The vehicle sales lot shall be developed in accordance with a revised site plan submitted within 60 days and approved by the Planning Director. The revised plan will stipulate the closing of the drive on Meridian closest to the intersection and show the location for all spaces that will be used for customer parking and the storage or display of vehicles. The required customer and employee parking shall not be used for the display of vehicles.
3. The applicant shall comply with the street yard landscaping requirements of Landscape Ordinance.
4. All parking, storage and display areas paved with concrete, asphalt or similar surface. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles so not encroach onto public right-of-way.
5. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons.
6. There shall be no use of elevated platforms for the display of vehicles.
7. No amplification system shall be permitted.
8. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
9. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with.
10. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

**HENTZEN** moved, **MICHAELIS** seconded the motion.

**KROUT** "And not require any landscaping?"



**HENTZEN** "Since there is an alley back there and fences now, and the D.A.B. approved it 6-0, I just think we ought to leave that alone."

**WARREN** "Item 10 in the staff comments does say either a fence or landscaping."

**KROUT** "It does? That isn't the staff recommendation that went to the D.A.B. Did we change our recommendation after the D.A.B. meeting?"

**EDGINGTON** "Yeah."

**CARROLL** "Yeah."

**KROUT** "And did your motion include the passenger vehicles, including SUV's and pick-up trucks?"

**WARREN** "I thought that was in the recommendations."

**BARFIELD** "That was in the D.A.B.'s recommendations."

**KROUT** "Yeah, that wasn't part of our recommendations, but in retrospect, we think that is probably a good idea."

**HENTZEN** "Okay."

**WARREN** "But you do want to include SUVs and light pickups?"

**KROUT** "The definition does that, but we will have it on the record that that is your intention."

**PLATT** "I am going to vote against the motion. It seems to me that what we are seeing on Meridian is exactly why we have the provision in our plan relating to the sale of vehicles. What we have here is now the beginning of, if you will pardon the expression, trashing Meridian. In a couple of minutes we are going to have the next application by the same applicant to put in a second used car lot on Meridian, and I think we can see a marching parade of them in the future, once we start. Meridian is going to start looking like some of the other streets."

It seems to me that in driving up and down it that there are some signs that there is movement in the opposite direction on Meridian, which I think we ought to be encouraging, not discouraging."

**OSBORNE-HOWES** "I continue to be concerned that in addition to the signage, we are also allowing fixed banners and such. I think, looking at the placement of these, we are basically giving four signs rather than three now. I really wish the maker of the motion would take that out, although I suspect that he probably wouldn't want to."

I am real concerned about the proliferation of these. Not that this would be the worst possible location if this were to be expanded, but I still believe that they should be clustered, so I will vote against the motion."

**GAROFALO** "The question I have of Bud is which of these two accesses on Meridian will be closed?"

**MICHAELIS** (Indicating) "This would be closed."

**GAROFALO** "Okay, that is what I thought. Any other discussion?"

**MICHAELIS** "I would just like to make a point. With all due respect to my fellow Commissioners, but I don't know where the term comes from of a car lot being a trashy area, but there are several of them along Kellogg, and if that is the main entrance to our City, then we have a lot of trash sitting at the entrance to our City. I don't believe that is the case, and I believe that any time we take an area that is pretty well run-down and abandoned, with abandoned bars, and in this case an abandoned building, and we are coming in there improving that situation, from a planning standpoint I think that is a much wiser decision than letting something continue to deteriorate, just because of stigma. We all drive cars. Every one of us got here today in a car and we all have to go places to buy those cars."

It is like we talked about before. The things that we tend to associate most with are the things that are closest to us. The less we have to drive to do whatever shopping we want to do, the more inclined we are to do that. I think it is a viable project and I am going to support it based on the fact that I think it is a much better alternative than what is there."

**BARFIELD** "I just want to ask Mr. Hentzen. The D.A.B. also calls for some type of screening, even though I think they made a mistake here when they put the northern property line. I believe that was supposed to have been the western property line. But are you saying that no screening is necessary?"

**HENTZEN** "That is what I am saying."

**KROUT** "They will have to meet the Code requirements for screening, which means that if the residents don't have a screening fence there, they will have to install one."

**BARFIELD** "There is no residency there."

**KROUT** "To the west."

**WARREN** "I am just going to hook onto Commissioner Michaelis' contentions here, and of course I have always very strongly objected to this broad brush degrading we put on automobile sales. You call them car lots but I call them the marketing and sales of automobiles. Whereas we have done a pretty good job, I think, with the restrictions, some other controls, and conditions that we have placed on these. We have taken out about 90% of those things that people have here before talked about being offensive. We have done a good job of controls on these things."

The sale of automobiles is as American as motherhood and apple pie, almost, and for us to say that this is a degrading type of business is wrong, I think. I think we have just over done that. I think that with our ability to get the property controls that these can be very attractive and legitimate businesses almost anywhere where commercial is. So I am going to support the motion."

**GAROFALO** "Any other discussion?"

**VOTE ON THE MOTION:** The motion carried with 9 votes in favor (Warren, Johnson, Warner, McKay, Michaelis, Garofalo, Barfield, Marnell, Hentzen, and Lopez) and two opposed (Osborne-Howes and Platt). Carraher abstained.

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6. **Case No. CON2000-00026** - Razook-Andeel High-Way Partnership (owners/applicants) Kim Edgington, Austin Miller (agent) request a Conditional Use permit to allow the sale of used cars on property described as:

Lot 1, Brentari Second Addition, Wichita, Sedgwick County Kansas and the North 125 feet of the West 135 feet and the West 41 feet of the East 195 feet of Lot 6, Block 1, Lester's Addition to Wichita, Kansas lying North of the South line of Brentari's Second Addition, extended East. Generally located on the southeast corner of 31<sup>st</sup> Street South and Meridian (2433 West 31<sup>st</sup> Street South).

**BARRY CARROLL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicants are requesting a Conditional Use to permit used car sales on a platted .87-acre tract of land. They indicate a desire to offer up to 60 vehicles for sale. This property is zoned "LC" Limited Commercial and is located at the southeast corner of 31<sup>st</sup> Street South and Meridian (see map). Access to the site is from Meridian Avenue and from 31<sup>st</sup> Street South. Currently there is a former convenient store at this location that is being used for surplus merchandise sales.

The property north of the application is a liquor store and manufacturing facility and is zoned "LC" Limited Commercial, the property to the south is a roller rink and it is zoned "LC" Limited Commercial; to the east is a bar zoned "LC" Limited Commercial; to the west are multi-family apartments zoned "LC" Limited Commercial.

Outdoor vehicle and equipment sales in the "LC," Limited Commercial, district may be permitted if: the location is contiguous to a major street; visual screening of areas contiguous to residential zoning is provided; storage and display areas paved with concrete, asphalt or other comparable material; outdoor lighting employs cut-off luminaries and mounted at a height not exceeding one-half the distance from the neighboring lot unless evidence is shown that the light source is not visible from the neighboring lot; no noise amplification system within any residential zoning district located within 500 feet of the site; no repair work maybe conducted except in an enclosed building; and no body or fender work is permitted.

Code required parking is at the rate of one space per 500 square feet of building area, plus two spaces for the first 10,000 square feet of area used for sales, display and storage, plus one space per 10,000 square feet thereafter. This site contains approximately 40,744 square feet of sales, display and storage area and approximately 2,752 square feet of building area. Six spaces would be needed for the office and three for sales customers or a total of nine spaces (see site plan). There are no used car lots in the general vicinity.

**CASE HISTORY:** The current site was platted as the Brentari Second Addition in 1970.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"LC" Limited Commercial	Commercial Business
EAST:	"LC" Limited Commercial	Commercial Business
SOUTH:	"LC" Limited Commercial	Roller Rink
WEST:	"LC" Limited Commercial	Multi-Family Apartments

**PUBLIC SERVICES:** Meridian Avenue is a four-lane arterial street with estimated traffic volumes of 12,978 (ADT) trips per day. Water/sewer and other municipal services are provided to the site.

**CONFORMANCE TO PLANS/POLICIES:** The Area Treatment Classification Map of the Comprehensive Plan identifies this location as a "conservation" area. These areas, which are basically, sound physically and viable economically, would

be protected from decline by policies which would ensure population stability, and maintain levels of investments, market strength, and environmental quality and neighborhood character. These areas cover a large portion of Wichita, including not only areas with no apparent threats to stability, but also areas where future viability may be questionable because of encroaching land uses or other impacts. Treatment policies and actions would include continuing strict code enforcement, ongoing maintenance of community facilities and prevention of land use conflicts. The Land Use Guide of the Comprehensive Plan identifies this property as "commercial." The plan contains an objective which states: "Confine highway-oriented, auto-related and non-retail commercial uses to a limited number of urban areas, such as portions of Kellogg, Broadway, the CBD fringe, and other similar areas."

**RECOMMENDATION:** Based on the information available prior to the public hearing, MAPD staff recommends the application be DENIED. The Comprehensive Plan does not indicate that a used car lot would be appropriate for this area, there are not any other vehicle sales lots existing or allowed by zoning in the general vicinity. The commercial uses along this portion of Meridian are neighborhood serving and do not involve the outdoor display storage associated with vehicle sales.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is zoned "LC," Limited Commercial. The "LC" district does not permit auto sales without a Conditional Use permit. The site has commercial uses on three sides and a residential use on one side. These two districts do not permit extensive outside display. The area is developed predominantly with lower intensity, small-scale neighborhood serving retail and service commercial uses. A car sales lot would not be consistent with the character and type of uses located at this site.
2. The suitability of the subject property for the uses to which it has been restricted: The property is being utilized today for retail sales and the "LC" district permits a wide range of retail sales and less intense uses. It seems plausible that a use could be found for this site that is permitted by the current zoning. Meridian carries a high enough volume of traffic and is of a sufficient size to be able to accommodate most smaller scale retail sales uses office or neighborhood oriented service tenants.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Outdoor storage and display of vehicles is not consistent with the type of development existing at this intersection. Approval of this request will most likely open other sites nearby for additional vehicle sales lots and other "heavier" commercial uses. Meridian is deserving of some level of protection against outside display and storage uses, otherwise it will begin to take on a South Broadway appearance.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies this property as "commercial." The plan contains an objective which states: "Confine highway-oriented, auto-related and non-retail commercial uses to a limited number of urban areas, such as portions of Kellogg, Broadway, the CBD fringe, and other similar areas." The Plan also recommends special attention to the visual quality of key major arterials and Meridian is identified as one of these roadways. The proposed use does not match these criteria. This area has no used car lots and if approved could be precedent setting for the neighborhood.
5. Impact of the proposed development on community facilities: Municipal services are available to serve this site, and the proposed use should not generate any more traffic than other permitted uses.

If, however, the Planning Commission believes this is an appropriate use, staff recommends approval be subject to the following conditions:

1. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of used cars. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.
2. The vehicle sales lot shall be developed in accordance with a revised plan, submitted within 60-days that is approved by the Planning Director, and which shows the location for all spaces that will be used for customer parking and the storage or display of vehicles. The required customer and employee parking shall not be used for the display of vehicles.
3. The applicant shall comply with the street yard landscaping requirements of the Landscape Ordinance.
4. All proposed parking, storage and display areas paved with concrete, asphalt or similar surface. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles so not encroach onto public right-of-way.
5. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons.
6. There shall be no use of elevated platforms for the display of vehicles.

7. No amplification system shall be permitted.
8. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
9. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with.
10. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

**CARROLL** "This case is located at the southeast corner of 31<sup>st</sup> Street South and Meridian. It is the proposal to sell up to 60 vehicles on site. There is a former convenience store at this location that is now being used for surplus sales. To the south there is a roller rink, to the west multi-family; to the west more multi-family; to the northwest more multi-family. To the north there is a liquor store. There is a manufacturing facility, Rose America, to the north and east. To the east is a neighborhood bar, and to the east of that is a car wash.

The District Advisory Board met on Wednesday, July 19. There were four representatives from the Southwest Village Neighborhood Association who spoke in opposition to this request. I think you were given a summary memo to this effect. The people who spoke in opposition stated that they thought the request, if approved, would be precedent setting and would result in more used car lots. There was no one to speak in support of this; consequently, the DAB member voted 6-0 to recommend disapproval on this particular case.

There are no used car lots in this general vicinity, and based upon our Comprehensive Plan, we are recommending that this request be denied. I will stand for any questions you might have."

**GAROFALO** "Are there any questions of Barry?"

**MARNELL** "Would you go back to the slide of the site itself?"

**CARROLL** "Sure."

**MARNELL** "That was a former convenience store?"

**CARROLL** "That is my understanding."

**GAROFALO** "Are there any other questions? Okay, we will hear from the applicant."

**KIM EDGINGTON** "I am with Austin Miller, representing the applicant. This is kind of unfortunate timing that these are going to happen back to back. I apologize for that. I would have much preferred that they were separated a little bit.

This is a very similar situation as before. We do have a current tenant at this building; however, they do plan on vacating this site when their lease expires in September. They have outgrown this space and will be moving on. Therefore, we have lined up a potential tenant, based on the outcome of this application for used car sales at this site.

We did have some discussion at the DAB meeting and there was a significant amount of concern among the neighbors that a tavern could be located on this site. Apparently there is a tavern to the east of this site right now that is not the most desirable neighbor in the area. I think there was maybe some misunderstanding about the ability to locate a tavern there now because it is not within 200 feet of residential zoning. There are apartments on the two corners, but they are located on Limited Commercial zoning, and a tavern would be an approved use at this site. That was a definite concern of the neighbors that a use similar to that tavern would then spring up at this site. We have spoken to several of the other neighboring business owners who are highly supportive of this case, specifically the skating rink owners and another business across the street. I think the liquor store would prefer to keep this site occupied rather than having some lapses here and there and having some vacancies.

We have a site to the north of here, the Rose America Corporation, a manufacturing site that has upwards of 100 cars parked on this lot every day, which we don't feel is significantly different than parking cars on this lot for sale at this site, which is also not expected to generate a significant amount of traffic. Again, the area's nature is fairly mixed in the terms of uses with commercial uses, a manufacturing use with some significant traffic counts to support this type of use and because of the siting of this location on this intersection, we feel that it is an appropriate location for this. I would welcome any questions that you might have."

**GAROFALO** "Are there any questions? Okay, thank you. Is there anyone else to speak in favor of this application? Is there anyone to speak in opposition? Seeing none, we will take it back to the Commission."

**OSBORNE-HOWES** "I do have a question."

**GAROFALO** "Kim, could you come back?"

**OSBORNE-HOWES** "This is about Item No. 5. Do you see the need to have these fixed 50-foot square banners on light poles? I am just honestly trying to imagine how that is going to impact signage. I know that this is a fairly new thing that the staff has written."

**EDGINGTON** "We would be agreeable to looking at a limitation on that, as far as number. I don't know that it would be fair to limit, as far as the size of this, based on competition between other lots in town, but we would be agreeable to a limitation in the number of those banners."

**OSBORNE-HOWES** "I think I am counting that there probably could be like four of those or more. I just wondered if you could offer up any kind of compromise that I think would limit them somewhat."

**EDGINGTON** "Do you have a specific suggestion?"

**OSBORNE-HOWES** "I am just concerned that...you know, for huge car lots with very tall lights on Kellogg, that I can understand, but this doesn't fit. I don't know what is appropriate, whether we are talking about smaller signs or fewer signs. Really, 50 square feet would be pretty big for those light poles."

**WARREN** "Five by ten from the distance of the street doesn't look that big."

**OSBORNE-HOWES** "No, these are designed to be small. They are not designed to be big. They are small if they are up high, but these would be low, and that is all I am asking, considering that you are someone who is actively involved in looking at these kinds of smaller car lots. What do you think would be appropriate?"

**EDGINGTON** "I think it would be appropriate to limit the number on this site."

**OSBORNE-HOWES** "Like, say two? No more than two?"

**EDGINGTON** "I think that would be fair."

**GAROFALO** "Okay. Kim, do you have a problem if the same provision was put in here about passenger vehicles?"

**EDGINGTON** "Just as long as we can include sport utility vehicles (SUV), which the Code does, so I think we are covered on that. We don't have a problem."

**GAROFALO** "Is there anyone else to speak in approval of this? Or in opposition? Seeing none, we will take it back."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The application area is zoned "LC," Limited Commercial. The "LC" district does not permit auto sales without a Conditional Use permit. The site has commercial uses on three sides and a residential use on one side. These two districts do not permit extensive outside display. The area is developed predominantly with lower intensity, small-scale neighborhood serving retail and service commercial uses. A car sales lot would not be consistent with the character and type of uses located at this site. The suitability of the subject property for the uses to which it has been restricted: The property is being utilized today for retail sales and the "LC" district permits a wide range of retail sales and less intense uses. It seems plausible that a use could be found for this site that is permitted by the current zoning. Meridian carries a high enough volume of traffic and is of a sufficient size to be able to accommodate most smaller scale retail sales uses office or neighborhood oriented service tenants. Extent to which removal of the restrictions will detrimentally affect nearby property. Outdoor storage and display of vehicles is not consistent with the type of development existing at this intersection. Approval of this request will most likely open other sites nearby for additional vehicle sales lots and other "heavier" commercial uses. Meridian is deserving of some level of protection against outside display and storage uses, otherwise it will begin to take on a South Broadway appearance. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies this property as "commercial." The plan contains an objective which states: "Confine highway-oriented, auto-related and non-retail commercial uses to a limited number of urban areas, such as portions of Kellogg, Broadway, the CBD fringe, and other similar areas." The Plan also recommends special attention to the visual quality of key major arterials and Meridian is identified as one of these roadways. The proposed use does not match these criteria. This area has no used car lots and if approved could be precedent setting for the neighborhood. Impact of the proposed development on community facilities: Municipal services are available to serve this site, and the proposed use should not generate any more traffic than other permitted uses.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of "passenger vehicles" as defined in the UZC. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.
2. The vehicle sales lot shall be developed in accordance with a revised site plan submitted within 60 days and approved by the Planning Director, and which shows the location for all spaces that will be used for customer parking and the storage or display of vehicles. The required customer and employee parking shall not be used for the display of vehicles.
3. The applicant shall comply with the street yard landscaping requirements of Landscape Ordinance.
4. All parking, storage and display areas paved with concrete, asphalt or similar surface. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles so not encroach onto public right-of-way.
5. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons except that fixed banners, affixed to light poles and not exceeding 50 square feet of material per light pole, will be permitted.
6. There shall be no use of elevated platforms for the display of vehicles.
7. No amplification system shall be permitted.
8. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
9. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with.
10. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

**HENTZEN** moved, **WARREN** seconded the motion.

**GAROFALO** "Is there any discussion?"

**MICHAELIS** "I really think we are making a mistake by doing this banner thing. We are micro-managing a marketing situation. This is not zoning, this is not planning, this is marketing. These people need to be able to market their product in whatever way they see fit, and I don't think it is fair for us to sit up here and tell them how much they can use to market their product. So, I would have to vote against that part of it unless you would be willing to amend it and take that out."

**WARREN** "I don't find them offensive. These are little 5-foot by 10-foot signs. I see them on most car lots. They really just kind of go with the environment of that type of marketing. I don't find them offensive at all."

**MICHAELIS** "I just don't think that is our job."

**OSBORNE-HOWES** "I would like to speak to that as a marketer. I think while we are here today, we really are looking at planning issues. I remember when they looked at the Sign Code and was very actively involved when they redid the Sign Code a number of years ago. These were, in some way, included in the sign. That is very well part of the planning and part of the concern is that when you have too many of these, they go in addition to the signs."

**MICHAELIS** "I think that is a sign issue."

**OSBORNE-HOWE** "Yeah, and a signing issue is part of what we are about. That is why I am dealing with it. See, I do see this as a planning issue. I certainly understand that a company needs to market itself, and that is why I am looking for some kind of agreement for what is feasible from someone who is actively involved in marketing. Especially since this is a fairly new thing that the Planning Department is doing."

**WARREN** "Susan, I think what Jerry is saying is that there is a limit as to how many restrictions and controls we can put on and they can still operate within the framework of the type of marketing they do. I am going to recite here flags, banners, portable signs, permits, feeders, pinwheel string lights, search lights, abutting, balloons, no amplification systems, no outside storage of vehicles, rigid lighting controls....hey! I will tell you, we have taken about everything that would even simulate the marketing of automobiles away already. For us to go further than that, I would love to see the motion maker amend that motion to take that restriction out."

**HENTZEN** "And after the discussion that the other Commissioners made, I am willing to take it out because I don't know any legitimate business that intentionally wants to do something offensive for their customers, and I don't think that banner thing is offensive. If there is any question about my motion, ask me, but I am willing to take that out."

**WARREN** "The second will second."

**WARNER** "Regarding your remark about offensive, I don't think you have seen many car ads on television."

(Laughter here)

**OSBORNE-HOWES** "I have to say, as a marketer, there are all sorts of marketing techniques that we are not looking at. These are very old-fashioned marketing techniques. If you would love to see a list of some things that I not only support but really applaud, come and visit with me sometime. This doesn't happen to be one of them because it is directly impacted by the signage, but I am not here to debate that today."

**HENTZEN** "I just realized that there is a limit in the staff report. What is it, one per light pole or something? There is already a limit there."

**GAROFALO** "So the motion eliminates the last part of Item No. 5? All right then, we'll vote."

**AMENDED MOTION:** I move that we recommend to the governing body  
that the request be approved, subject to the following:

1. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of "passenger vehicles" as defined in the UZC. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.
2. The vehicle sales lot shall be developed in accordance with a revised site plan submitted within 60 days and approved by the Planning Director, and which shows the location for all spaces that will be used for customer parking and the storage or display of vehicles. The required customer and employee parking shall not be used for the display of vehicles.
3. The applicant shall comply with the street yard landscaping requirements of Landscape Ordinance.
4. All parking, storage and display areas paved with concrete, asphalt or similar surface. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles so not encroach onto public right-of-way.
5. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons will be permitted.
6. There shall be no use of elevated platforms for the display of vehicles.
7. No amplification system shall be permitted.
8. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
9. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with.
10. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

**HENTZEN** moved, **WARREN** seconded the motion, and it carried with 7 votes in favor (Johnson, Michaelis, Warren, Marnell, Warner Garofalo and Hentzen) and 4 in opposition (Platt, Lopez, Osborne-Howes and Barfield. Carraher abstained.

**KROUT** "That is approved, and I am not appealing it to the City Council."

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7. **Case No. CON2000-00023** - Leewood Homes (owner/applicant), Dr. William Skaer (contract purchaser/applicant) request a Conditional Use for "Animal Care, Limited" (small animal veterinary clinic) on property described as:

Lot 1, Village Square Addition, Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of Edgemoor and Lexington.

**DALE MILLER**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is requesting a "Conditional Use" permit to allow "animal care, limited" (small animal veterinary clinic) on a .47 acre corner lot located southeast of Edgemoor and Lexington (Lot 1, Village Square Addition). The site is currently zoned "GO" General Office. The applicant currently operates a clinic at 603 N. Edgemoor, and he

wants to move his practice to the application area. The applicant proposes to build a new 5,792 square foot building, which would face Lexington. Access would be off Lexington with a joint drive with the property to the east. Twenty-three parking spaces would be provided. Landscaping would be provided along the north and west perimeter of the parking lot. There would not be any outdoor runs or kennels.

Surrounding land uses and zoning is as follows: fire and police station to the north on "SF-6" Single-family and Special Permit to permit "safety services"; vacant "GO" General Office zoning to the east; "LC" Limited Commercial zoning developed with a pool and patio retail sales use to the south; and to the east is the Veterans Administration Hospital on "GO" General Office land. The Girl Scouts of America have a large office facility on property located northeast of the application area. The application area is surrounded by nonresidential uses and is located one lot away from a freeway which carries coast to coast traffic.

The applicant has met with residential neighbors located to the east to amend restrictions contained within a private covenant agreement that was created at the time this property was platted. The applicant's agent advises staff that those negotiations have been successfully completed.

"Animal Care, Limited" is a use permitted in the "GO", General Office district only with a "Conditional Use" subject to the following conditions: 1) no noise or odor shall be discernable at the property line. 2) treatment of animals shall be limited to dogs, cats and other small animals; and 3) all animals shall be harbored indoors.

**CASE HISTORY:** Village Square Addition was recorded July 31, 1998. The "GO" General Office zoning was approved by the MAPC on July 17, 1997.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-6" Single-family Residential / DR 87-4; Fire and Police station  
SOUTH: "LC" Limited Commercial; pool and patio retail sales  
EAST: "TF-3" Two-family / "SF-6" Single-family Residential; residences  
WEST: "GO" General Office; VA Hospital

**PUBLIC SERVICES:** Edgemoor is a paved 4-lane arterial carrying 12,307 average daily trips in 2000. Lexington is a two-lane paved local street. Public services are available.

**CONFORMANCE TO PLANS/POLICIES:** The plan supports the location of convenience centers, which are composed primarily of an anchor tenant and a variety of smaller tenants, at the intersection of an arterial and collector. Commercial locational guidelines recommend that commercial sites: be located adjacent to arterial streets or major thoroughfares to avoid congestion; should employ site design features which limit noise, lighting and other activity so as to not adversely impact surrounding residential areas; and commercial generated traffic should not feed directly onto local residential streets.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED. However if the Planning Commission feels the request is appropriate, the application should be subject to the following conditions:

- A. The site shall be developed and utilized in general conformance with the site plan approved by the MAPC, including the preservation of the four existing street trees shown on the site plan.
- B. The uses permitted on the site shall be restricted to "animal care, limited" and "GO" General Office uses.
- C. Any violation of the conditions of approval shall render the Conditional Use permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. Neighboring zoning is "SF-6" Single-family, Special Permit to allow a safety service, "GO" General Office and LC" Limited Commercial. Uses are police and fire station, vacant, residential, pool and patio retail sales and a hospital. This site is one lot removed from U.S. Highway 54, a freeway that carries coast to coast traffic.
2. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "GO" General Office. A small animal clinic is permitted with a Conditional Use in this district. The site could be developed as zoned, although there is only one other office user in the immediate area.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this request should not detrimentally affect nearby properties given the fact that all services associated with this use must be conducted inside.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: this request is consistent with the plan in that services of this nature are typically found along arterial streets (Edgemoor); it is a corner lot that is surrounded by nonresidential uses so that the clinic traffic will not go by residential uses; and the applicant is utilizing a joint driveway and providing landscaping.



5. Impact of the proposed development on community facilities: None identified.

**MILLER** "If the Chair would be interested in seeing whether we have any opposition to this, I can do this quickly if there is nobody here who is opposed."

**GAROFALO** "Okay. Is there anyone here to speak in opposition to Agenda Item No. 7? Okay, Dale."

**MILLER** "The very abbreviated version of this is that this is a Conditional Use request to allow Animal Care Limited. We have here an existing veterinary clinic that is interested to moving to a new location, and they have chosen this site. They would construct a 5,792 square foot building, which would face Lexington. There is a site plan attached to the staff report.

As you can see, access would be off of Lexington and would face to the north. Surrounding land uses are the City's Police and Fire substation to the north; there is a Girl Scout office to the northeast. The land immediately to the east is vacant currently, and then crossing over to the next street, there are some single-family homes over there, and to the south is Ultra-Modern Pool and Patio and to the west is the Veteran's Administration Center.

Staff is recommending support based on the three conditions found on Page 3. Item B is the only one that is probably of real interest, and that is that the uses on the site be restricted to Animal Care Limited and 'GO' General Office uses. The applicant says they are agreeable with the conditions. With that, we would respond questions."

**GAROFALO** "Are there any questions? Okay, then we will hear from the applicant."

**GARY WILEY** "I am here on behalf of the applicant. We are in agreement with the staff comments. I would be happy to answer any questions."

**GAROFALO** "Are there any questions of Gary? Okay. We have it back here since there is no one to speak in opposition."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood. Neighboring zoning is "SF-6" Single-family, Special Permit to allow a safety service, "GO" General Office and LC" Limited Commercial. Uses are police and fire station, vacant, residential, pool and patio retail sales and a hospital. This site is one lot removed from U.S. Highway 54, a freeway that carries coast to coast traffic. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "GO" General Office. A small animal clinic is permitted with a Conditional Use in this district. The site could be developed as zoned, although there is only one other office user in the immediate area. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this request should not detrimentally affect nearby properties given the fact that all services associated with this use must be conducted inside. Conformance of the requested change to the adopted or recognized Comprehensive Plan: this request is consistent with the plan in that services of this nature are typically found along arterial streets (Edgemoor); it is a corner lot that is surrounded by nonresidential uses so that the clinic traffic will not go by residential uses; and the applicant is utilizing a joint driveway and providing landscaping. Impact of the proposed development on community facilities: None Identified.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. The site shall be developed and utilized in general conformance with the site plan approved by the MAPC, including the preservation of the four existing street trees shown on the site plan.
2. The uses permitted on the site shall be restricted to "animal care, limited" and "GO" General Office uses.

**MICHAELIS** moved, **LOPEZ** seconded the motion, and it carried unanimously (11-0).

8. **Case No. ZON2000-00028** - New Life Christian Church c/o Nick Harris (Owner/Applicant); Phil Snodgrass (Agent) request zone change from "SF-6 Single-Family Residential to "TF-3" Two-Family Residential, on property described as:

Beginning at the Southeast corner of Lot 1, Block A, New Life Christian Church Addition, Sedgwick County, Kansas, thence South 89 degrees 51' 56" West, 325 feet; thence North 26 degrees 13' 50" West, 212 feet; thence North 63 degrees 46' 10" East, 435 feet; thence South 00 degrees 03' 03" East, 378 feet to the point of beginning. Generally located south of Central and east of Greenwich.

**SCOTT KNEBEL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant requests a zone change from "SF-6" Single-Family Residential to "TF-3" Two-Family Residential on a 2.3 acre platted tract located south of Central and east of Greenwich. The zone change request is associated with a proposed replat of the property (SUB2000-00056 – Ellson Court Addition) that is scheduled for hearing by the MAPC on the same agenda. The applicant proposes to develop the site with duplexes on five lots fronting a cul-de-sac off Ellson. The applicant proposes a drainage reserve along the north of the subject property.

The surrounding area is characterized by commercial and industrial development at the corner of Central and Greenwich with residential and institutional development located further from the arterial intersection and more proximate to the subject property. The adjacent property west of the site is zoned "SF-6" Single-Family Residential and is developed with single-family residences and vacant home sites in the Fountains 2<sup>nd</sup> Addition. The adjacent property north of the site is zoned "SF-6" Single-Family Residential and is developed with the New Life Christian Church. The property east of the site across Ellson is zoned "SF-6" Single Family Residential and is developed with single-family residences in the Gott Addition. The adjacent property south of the site is zoned "SF-6" Single-Family Residential and is developed with single-family residences and vacant home sites in the Fountains 2<sup>nd</sup> Addition.

**CASE HISTORY:** The site is in the New Life Christian Church Addition, which was recorded July 6, 1990.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-6" Church  
SOUTH: "SF-6" Single-Family  
EAST: "SF-6" Single-Family  
WEST: "SF-6" Single-Family

**PUBLIC SERVICES:** The site has access to Ellson, a two-lane asphalt mat local street with open ditches. Public water and sewer service are available to serve the site.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Low Density Residential category provides for the lowest density (1 to 6 units per acre) of urban residential land use and consists of single-family detached homes, zero lot line units, cluster subdivisions, and planned developments with a mix of housing types that may include townhouse and multi-family units. The Residential Locational Guidelines of the Comprehensive plan indicate that medium-density residential uses, such as the proposed duplexes, may serve to buffer low-density residential uses from commercial uses. The adjacent property to the north of the subject property is identified in the Land Use Guide of the Comprehensive Plan as appropriate for "Commercial" development. The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill, and higher density residential development, that maximizes the public investment in existing and planned facilities and services. The objective is intended to be achieved through the following strategy: use Community Unit Plans, Planned Development Districts, and zoning as tools to promote mixed use development, higher density residential environments, and appropriate buffering.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to replatting within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by commercial and industrial development at the corner of Central and Greenwich with residential and institutional development located further from the arterial intersection and more proximate to the subject property. The adjacent property west of the site is zoned "SF-6" Single-Family Residential and is developed with single-family residences and vacant home sites in the Fountains 2<sup>nd</sup> Addition. The adjacent property north of the site is zoned "SF-6" Single-Family Residential and is developed with the New Life Christian Church. The property east of the site across Ellson is zoned "SF-6" Single Family Residential and is developed with single-family residences in the Gott Addition. The adjacent property south of the site is zoned "SF-6" Single-Family Residential and is developed with single-family residences and vacant home sites in the Fountains 2<sup>nd</sup> Addition.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single-Family Residential, which accommodates moderate-density single-family residential development and complementary land uses. The site could be developed with such uses; however, the development of 10 duplexes as proposed (4.4 units per acre) is within the appropriate density range (1 to 6 units per acre) for the "SF-6" district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by lot orientation and similar density to single-family lots.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Low Density Residential category provides for the lowest density (1 to 6 units per acre) of

urban residential land use and consists of single-family detached homes, zero lot line units, cluster subdivisions, and planned developments with a mix of housing types that may include townhouse and multi-family units. The Residential Locational Guidelines of the Comprehensive plan indicate that medium-density residential uses, such as the proposed duplexes, may serve to buffer low-density residential uses from commercial uses. The adjacent property to the north of the subject property is identified in the Land Use Guide of the Comprehensive Plan as appropriate for "Commercial" development. The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill, and higher density residential development, that maximizes the public investment in existing and planned facilities and services. The objective is intended to be achieved through the following strategy: use Community Unit Plans, Planned Development Districts, and zoning as tools to promote mixed use development, higher density residential environments, and appropriate buffering.

5. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted due to the minor increase in density.

**KNEBEL** "This zone change is associated with a proposed replat of the property, which was deferred earlier in the day. It was Item 2-3 on the agenda. The applicant is proposing to develop the site with 5 lots each with a duplex on the lot. The surrounding area is characterized by commercial and industrial development at the corner of Central and Greenwich. Closer to the site is residential and institutional development.

The Land Use Guide identifies this property as appropriate for low density residential development. The residential guidelines of the Comprehensive Plan indicate that medium density residential uses, such as duplexes are appropriate as a buffer between commercial sites. The land use, while it is not zoned currently, the Land Use Guide indicates that the property to the north at Central and Ellison is appropriate for commercial development in the future. The Comprehensive Plan also contains an objective encouraging higher density residential development through zoning as a tool to accomplish that. The Planning staff is recommending approval of this request, subject to replatting."

**GAROFALO** "Are there any questions of Scott?"

**PLATT** "Is this the best time to get a comment on this whole question about the flood plain that has been developed?"

**KNEBEL** "I am not really sure what Marvin had intended on pulling the plat whether he wanted to discuss the drainage issues along with the zoning or with the platting of the property. There have been some written materials submitted to the Planning Commissioners regarding some concerns about the drainage of this property. There is a drainage reserve along the north property line. Marvin, did you intend to discuss the drainage issues along with the zoning, with the platting, or what?"

**KROUT** "I think it is probably going to be hard for speakers to separate them, so my suggestion to the Planning Commission is that you have one hearing and hear the comments on both of them but remember that when you vote on zoning and on subdivision issues, the things that you look at are a little bit different. A subdivision plat for single-family lots could have the same drainage impact as a subdivision plat for duplex lots. So if there are drainage problems, you probably will want to reserve your discussion about that until you get to the platting items because I think it would be hard, probably for most of the property owners to separate out their comments and I think you need to hear them both."

**PLATT** "Well, does staff wish to comment on that issue, then?"

**KNEBEL** "We have Vicki Huang here with the Engineering Department. Do you have specific questions?"

**PLATT** "Yes. Is the lot buildable or not?"

**VICKI HUANG** "With the plat, we did receive a drainage plan from the platting engineers. According to their analysis, this development will not have much impact on that draw. Upstream, there is a detention pond for that Fountain Addition that was constructed a few years back. They have platted a floodway reserve along their north portion of the plat. This is only 5 lots and has very minor changes on the drainage.

I am aware that further upstream in the last year or earlier this year, there was a heavy rain and there was some drainage problems over here (indicating). I don't know the nature of that. They are claiming that the water overtopped the road. We can take a closer look on that, maybe the channel to the west should be deepened and widened or something. But as far as this, it is downstream from the detention pond and shouldn't have any effect on upstream."

**GAROFALO** "George, does that answer your questions?"

**PLATT** "Yes, I guess the lots are buildable."

**WARREN** "I think to summarize what you are saying, then, is that even though there may be a drainage problem in the area to some degree more than others, that this addition is probably not going to contribute further to that?"

**HUANG** "Probably not."

**OSBORNE-HOWES** "Is it or is it not in the flood plain? Is it not in the 500 year?"

**HUANG** "The platting engineer is here and can confirm this. I don't think this is in the FEMA flood plan area."

**OSBORNE-HOWES** "Is it or isn't it?"

**ALLISON** (From the audience) "It is not in the FEMA flood plain."

**GAROFALO** "Okay. Then we will hear from the applicant."

**GREG ALLISON** "I am with MKEC, Engineering Consultants, representing the applicant. We are seeking the 'TF-3' zoning. I think that is the main issue we are looking at, the drainage. We have talked with the neighborhood prior to this meeting just outside the door. If there are additional concerns they have, what we have said is that we will look at them with them, but our analysis shows that we won't, by this development, contribute to any additional problems, as Vicki said.

I think a lot of their problems, in my opinion, are maybe more in line with that red area and a little of Raytheon. Some of those areas ought to be storing water if it is flooding out people downstream. So I think M.S. Mitchell is on board with them and we would be happy to compare our numbers with him. Just to come to some conclusion. But we do feel that what we have submitted is appropriate. I would be happy to answer any other questions you might have."

**OSBORNE-HOWES** "Was dirt added to raise this above the flood plain?"

**ALLISON** "Not to my knowledge. In the past I don't think, there are some areas that we will probably need to fill a little bit of these areas right in here (indicating) and right in here, just to grade around the lot itself. It is all outside of the existing floodway reserve or easement reserve. What is not shown on here is that there is a reserve for drainage here, but it is also equally on this side. We have a fairly wide drainage reserve that is part of the purchase agreement. The developer of this tract (indicating) is going to own and maintain half of it and the church to the north is going to own and maintain half of it.

So our intent is not to do any work at all through that floodway area other than to just maintain it. We are not going to fill it or alter it in any way."

**GAROFALO** "Okay. Are there any other questions?"

**GAROFALO** "Thank you. Is there anyone else to speak in favor of this application? Anyone to speak in opposition?"

**TODD ALLAM** "I am the present developer of The Fountains subdivision. I purchased this from Carl Solomon, who brought it through planning and annexing back in 1995, I believe. I speak in opposition to this for myself as well as some of the builders in The Fountain subdivision and the homeowners that have contacted me. There are two reasons. One is the zone change and the second is this flooding issue.

When Carl sold this to me, he told me that all of the area north that we are speaking of was the floodway, and in generality said that there would never be anything built there. Subsequently, we told every homeowner in that area that that is a floodway and they didn't need to worry about development. The error is on my part for not checking out Carl Solomon.

The second thing we are concerned about is the devaluation of property by going to rental units. The Fountains II is a covenanted subdivision. In our marketing studies, we found that on the east side of Wichita there are minimal medium income priced-ranged housing with covenanted subdivision rules that help enhance the value of the property. So we did make that a covenanted condition, trying to keep the property values up in there. These price range of houses run from about \$120,000 to as high as \$180,000.

The second issue is the stormwater run-off. Over the last four years, this hasn't been an easy project. When we put the infrastructure in, the first thing that happened to us was that Central got shut down to four lanes which cut off our traffic and then we ended up with four lanes at Greenwich and that cut off our traffic, so the economics have not worked well. But we have seen, continually, more and more stormwater run through this subdivision and now we are at the critical stage. We are at the fine line where we are just at a point where any more development without the proper engineering, of having water in people's basements. We have some people here to speak to that today.

Three years ago, even in the 1998 flood, we saw no water going over Dowell, but since that time, Slawson has bought this and started filling this property. Greenwich has been made four lane, Central is four lane and we are pouring more and more water through this reserve through the ditch and out through this reserve area. Right now, we have a problem, and approximately 30 days ago, we had water going over the top of Dowell. So, that structure is not even big enough to handle it now.

We are coming into this area and seeing tremendous water coming off of this meadow area, down through here. We are up over our structure here, and this entire area is filling up with water. It is acting as basically a secondary detention pond. The structure on Ellson are three culverts put in by the township, I imagine, years ago. They are not sufficient and it actually even goes over the top of Ellson. We have a homeowner that lives in this property right here that was five feet from their basement wall of having water going into their basement. This was all designed with minimum pads. We built all of those and exceeded them and we are continually seeing more and more water come our direction. I guess my thoughts on this at this time, having gotten M.S. Mitchell involved, and he will speak to this issue, he was out there and looked at it with me, I suggest we make a replatting requirement with a drainage study to go along with it, proven. I have

talked to Vicky Huang about it and made her aware of it. We were talking in the hallway out here and we have data that doesn't match on that spillway over there on Ellson.

I think we want to reiterate our opposition to going to rental properties in the neighborhood. I think we also want to reiterate our opposition to any kind of development without a proper drainage study because we are right at the borderline of having water in people's basements right now."

**GAROFALO** "Are there any questions of Mr. Allam?"

**MICHAELIS** "Todd, which way does the water run there now? Does it run from south to north?"

**ALLAM** "Greenwich has been swelled back this direction both ways and it dumps the water through this reserve. There is a box culvert under Dowell here that now is not handling the water it was designed for three or four years ago. So we have water breaching the street here, and then we also have water coming through a reserve under Dowell here and then down the reserve and into this detention pond, with a structure that allows the water out right here through this floodway.

There will be some people testify today that they have seen water pond, basically, clear back up to this homeowner's lot. That is what we are concerned about. We are already reaching the lot line here with water that is spreading out through this floodway, which is basically over the top of the applicant's ground. We are understanding from the original study that that doesn't happen, but we visually have seen it. Water also comes down Ellson from all of the subdivision on both sides of the street."

**MICHAELIS** "Okay, thank you."

**GAROFALO** "Any other questions? Okay, thank you. Are there other speakers?"

**KEN CASEY** "I live at 327 North Dowell. I live at the property where the reserve water is coming in off of Greenwich Road. As Todd stated, during that heavy rain we had roughly a month ago, I had water five feet from my basement. I took a drive through the subdivision to see how bad the water was through the subdivision. At Ellson, where the drainage crosses there, the water came up over the front bumper of my truck, which is roughly 1-1/2 to 2 feet off of the ground.

I am not an engineer, and I can't speak for why the water backs up. All I can tell you is that area that he is talking about building in, that grassy area was virtually completely under water. I am sure it wasn't deep. I didn't walk in it to find out, but because of the water that runs down Ellson from the south towards Central, and then the water coming off of the reserve, that water was just backing up and flowing in every direction. My concern is that if we do anything to back that water up any further, it is going to back up into my house. With any luck, we can prevent that. I support what Todd said. If somebody can do a study and confirm to me that that water is not going to back up into my house, then I am happy.

The other side of that issue is that I do agree that anything goes in there will be something that will not devalue my property. No homeowner buys a house wanting to lose money on the home. We do live in a covenanted subdivision. I moved into that subdivision for that very reason because it had covenants and it prevented people from devaluing my property by allowing theirs to 'go to crap' so to speak.

As long as I can get some kind of confirmation that that is not going to happen to me, then I can be comfortable with that and at the same time, if somebody can assure me that that water is not going to back up into my house again, I can be comfortable. But right now, I can't see where they are giving me that confirmation."

**GAROFALO** "Are there any questions? Thank you. Next speaker?"

**LOU JOHNSON** "I live at 424 North Ellson, just straight across the street east from this property. I share the same concerns that I have been hearing on the flooding. I am not going to talk about that again because I think they have done a real good job of covering that, but I do have one more concern, and this relates to the platting of the property, rather than the zoning.

The way they have this property set up, the drive, or the road, I guess you would say, coming out onto Ellson, is going to line up directly across the street from my driveway and is going to extend about 4 feet to the south of my drive and about 8 feet to the north. I can see a couple or three potential problems with that. No. 1 being that any time anyone backs out of my driveway, they will be backing out into an intersection. I am not comfortable with that.

Another problem I can see is in the winter when it gets icy, I can see people sliding through that stop sign, and if they are lucky, they will slide up in my drive and hit one of my cars or my garage. If they are not lucky, they will be off to the side to where they will end up high centering on a curb along the side of my drive with two wheels on the drive and two wheels in the ditch. Then you are talking some considerable damage.

Another problem that I have, and I will have to admit that I don't have any children and I am not an expert on child behavior, but I can see, with that drive being right across from their street, I can see kids riding bicycles in that court and deciding to just come on across Ellson and turn around in that drive. So then you have bicycles running back and forth across Ellson. Ellson doesn't carry a whole lot of traffic, but it carries a fair amount. Unfortunately, there are a few people that run up and down through there like it is the Indy 500. Basically, my thinking is that the best bet on this road is to move it up to the north end of the property. I am not a Traffic Engineer, and there may be a problem with that, but up at

the north end of the property, it wouldn't be across from a driveway and it wouldn't be across from anyone's property. What it would be across from is an area which I believe, I am not 100 percent sure, but I believe is already platted for a city street, although there isn't a street there at this time."

**GAROFALO** "Are there any questions? Thank you. Next speaker."

**M.S. MITCHELL** "Mr. Chairman, members of the Commission. I live at 1215 Forrest. I am here on behalf of the subdivision developer to the west and the residents of that subdivision. I talked to Greg Allison today and based on the experience that the residents have had of water flowing over Ellson recently, and my knowledge that it has been over a number of times in the past, the drainage plan that the City accepted that Mid-Kansas did does not reflect those elevations within 2 to 2-1/2 feet. So there is a significant difference between the drainage plan that was submitted and accepted by the City and what has happened recently.

It is my recommendation that the subdivision be held up until a new drainage study is completed. The residents have agreed to go out with me and stake high water marks if we can find them, to find the absolute relationship between the water going over Ellson and the water backing up, if it is, into their subdivision. We hope to have that information by the end of next week. So I would recommend that you take a deferral as far as the subdivision plat until the drainage issues are resolved. I would answer any questions you have."

**MICHAELIS** "Mitch, can you answer the question; it seems like at first glance, that a lot of the problem is coming from Greenwich Road, across that property, into this subdivision. Is that something that was done by that piece running down Greenwich Road? Is it something that was done by the City? I mean, was something missed there, or was this always intended to be an area to take all of that water?"

**MITCHELL** "Well, it was intended to convey run-off from west of Greenwich; from Greenwich; from east of Greenwich and west of The Fountains. But what apparently has happened, based on the discussion again with the residents, that part of the natural basin that that water could stand in until it found its way through that route has been filled. So the natural detention storage has been reduced. We are concerned that the same thing would happen with the natural detention storage upstream from Ellson, if the plat is approved as it is now drawn."

**MICHAELIS** "What I am trying to get to, I guess, is who is causing the problem here? Is the problem the new development, or is the problem the filling in of this existing property?"

**MITCHELL** "No, the problem is with new development exceeding the run-off that the culvert under Dowell Street. That culvert isn't big enough to handle the flow that is coming to it."

**MICHAELIS** "I am trying to get to the answer to that. Is that because the property that is being filled is eliminating that natural detention that you are talking about, and should there be provision on that property because it seems like this new property is being penalized for the other property filling up."

**MITCHELL** "Regardless of whether the natural detention would have been big enough to make the culvert under Dowell Street carry the flow, it isn't carrying it now, so some detention needs to be provided east of Greenwich to hold that before it gets into The Fountains. That is not part of any current plan."

**KROUT** "Is that something that should be this developer's responsibility though?"

**MICHAELIS** "That is what I am trying to get to."

**MITCHELL** "No, it should not be the responsibility of this developer that far upstream. What we are not sure of is whether this developer can do anything that would improve the situation that the owners who are here today are concerned about. We don't have that actual profile to know whether or not there is a direct relationship. Greg doesn't think there is, I am not sure."

**MARNELL** "The flow is going south, so the problem that is creating this is not going under Dowell Street, it is an upstream problem. This is further. Is the concern here that this is going to somehow slow that or block that?"

**MITCHELL** "The concern is that part of this area here (indicating) now is storing water to a height of, he says up to two feet, during the last storm. If it is subdivided as it is now platted, part of that area will be filled and that storage will be lost. That may have an effect as far west as The Fountains. The building pad elevations that were suggested through the drainage study for the plat don't meet the elevation that he says occurred two or three weeks ago. If building pads had been built to the approved elevation, they would have been flooded during that occurrence."

**GAROFALO** "So you are suggesting that we defer the plat until there is a further study of this whole drainage thing?"

**MITCHELL** "That is correct."

**WARREN** "Right now, I think all we are concerned with is the zoning, though, isn't it? We've got other problems with this plat. This plat has been before the Subdivision Committee, last week as a matter of a fact."

**LOPEZ** "It's right here in front of us."

**WARREN** "Yeah, with some other problems that we have to work out. Why we are dealing with these problems now I don't know."

**LOPEZ** "It is here to be approved."

**WARREN** "As far as I am concerned, we are taking a look at zoning. I know we have some sewer problems out here having to do with are they going to be in the Four Mile Creek area, or what."

**KROUT** "I think it is very hard for property owners to separate out those issues. It is your job to separate them out when you deal with Agenda Item No. 8, Case No. ZON2000-00008 and then you go back to Subdivision case 2-3."

**WARREN** "I know, but this is going to come up for a plat within what, 30 days probably?"

**LOPEZ** "No, today."

**GAROFALO** "We've got it here."

**KROUT** "It is on today's agenda and you will act on it following your vote on the zoning case."

**WARREN** "Oh, okay."

**GAROFALO** "Okay, thanks, Mitch. Is there anyone else to speak on this? ?"

**KATHY SCHMIDT** "I am with Plaza Real Estate. We just recently took over the marketing of this community. I know again that you are talking a platting issue versus a flooding issue, but we still have to deal with how it is going to effect the homeowners because if they ever do have water back up into their property, I can guarantee you it will effect their values because they have to disclose this any time down the road when they sell their property. So I ask you to review that before you make a consideration here because of the ultimate effect it will have in the future. Thank you."

**KROUT** "Do you have any comments on duplexes versus single-family, which is the zoning question?"

**SCHMIDT** "No, actually, I don't. It depends on what does go in there and when I talked earlier they don't have any exact plans set up for that. Yeah, if it is much smaller, much lower priced, it could definitely affect, but when you do go from commercial to residential, you often see that occur in between. If they are rentals and they don't have covenants, it could definitely make a difference there to, if they allow any kind of trailers parked out front. I know we have the City codes to sometimes stop that, but a lot of times unless the homeowners themselves keep that from occurring, you are going to see more and more of that type of thing, or a truck on blocks setting out front. That can start to affect the values of the property."

I just took over the marketing of the company for it, and I was told by Mr. Allam, who also had been told in the past that the property was a flood zone area that would never be built on because of the flood zone and we have seen a lot of extensive water in that area, so I assumed, as well as he did, and I should have looked at a platting myself, but I have not sold any property backing up to that. There is some liability there because there is homeowner currently that does back up to that property right now, and on his basis that is a problem for him no doubt, even though he is not here today.

So I can see that maybe that would affect their value because when you go from single-family to anything but single-family, there is a differential there."

**GAROFALO** "Thank you. Is there anyone else to speak? Okay, the applicant has two minutes rebuttal."

**ALLISON** "As far as the zoning, I think we stand by with wanting to go ahead with the 'TF-3'. As far as the platting, we have no problem deferring the platting part to work out some of the drainage issues with the engineer they have retained. I think they are issues we can work out and still continue with our plat, but to make them and you guys comfortable, we don't have a problem doing that."

Mr. Warren brought up the sewer situation. We are working on that part, but that is really even a separate issue from platting. It doesn't necessarily stop the platting, it is just more of a financial burden to the developer rather than a platting issue. In our drainage analysis, we came up with more flows than the original engineer did on The Fountains, so we think maybe some of the stuff in The Fountains was maybe underdesigned in the first place, and I know in particular in the storm we were talking about that was a month ago, it exceeded design storms that we normally design to as engineers.

It was from the things we worked on in the area, we are hearing that it is about a 4 inch rain in an hour and a half, which is a pretty excessive storm. So on top of those kinds of things, we can see why they had those concerns. We do feel that a lot of the drainage issue we can visit on our next time at the platting and are things that are upstream rather than problems caused by us, but I think that is something we can delve into with Mitch and kind of come to some consensus. We do want to pursue the zoning, but we don't have a problem deferring the platting part."

**GAROFALO** "Any questions? Okay, thanks. We will take it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood): The surrounding area is characterized by commercial and industrial development at the corner of Central and Greenwich with residential and institutional development located further from the arterial intersection and more proximate to the subject property. The adjacent property west of the site is zoned "SF-6" Single-Family Residential and is developed with single-family residences and vacant home sites in the Fountains 2<sup>nd</sup> Addition. The adjacent property north of the site is zoned "SF-6" Single-Family Residential and is developed with the New Life Christian Church. The property east of the site across Ellson is zoned "SF-6" Single Family Residential and is developed with single-family residences in the Gott Addition. The adjacent property south of the site is zoned "SF-6" Single-Family Residential and is developed with single-family residences and vacant home sites in the Fountains 2<sup>nd</sup> Addition. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single-Family Residential, which accommodates moderate-density single-family residential development and complementary land uses. The site could be developed with such uses; however, the development of 10 duplexes as proposed (4.4 units per acre) is within the appropriate density range (1 to 6 units per acre) for the "SF-6" district. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by lot orientation and similar density to single-family lots. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Low Density Residential category provides for the lowest density (1 to 6 units per acre) of urban residential land use and consists of single-family detached homes, zero lot line units, cluster subdivisions, and planned developments with a mix of housing types that may include townhouse and multi-family units. The Residential Locational Guidelines of the Comprehensive plan indicate that medium-density residential uses, such as the proposed duplexes, may serve to buffer low-density residential uses from commercial uses. The adjacent property to the north of the subject property is identified in the Land Use Guide of the Comprehensive Plan as appropriate for "Commercial" development. The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill, and higher density residential development, that maximizes the public investment in existing and planned facilities and services. The objective is intended to be achieved through the following strategy: use Community Unit Plans, Planned Development Districts, and zoning as tools to promote mixed use development, higher density residential environments, and appropriate buffering. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted due to the minor increase in density.) I move that we recommend to the governing body that the request be approved, subject to replatting within one year.

**WARREN** moved, **HENTZEN** seconded the motion, and it carried unanimously (11-0).

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Item taken out of order:

Subdivision Item 2/3 - **SUB2000-56** - One-step Final Plat of Ellson Court Addition, located at 11441 East Central.

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a zone change.
- B. The lots will be served by the Four Mile Creek sanitary sewer system. On the final plat tracing, appropriate wording shall be added to the Mayor's signature block indicating the City's agreement to allow a County sewer district to be formed within the City. County Engineering advises that the Sedgwick County Sewer District Impact Fee for development of each dwelling unit in this Addition is \$12,050.07. This amount is not amortized by special assessment and is due and payable in full when initial permits are pulled. The Applicant has requested the removal of Lots 1-4 from the Four Mile Creek Sewer District in order to connect with City sewer.
- C. The applicant shall guarantee the extension of City water to serve the site.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- E. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.



- F. A minimum pad elevation as shown on New Life Christian Church Addition of 1366.4 MSL (179 City Datum) needs to be added.
- G. A benchmark needs to be added.
- H. The 15-ft utility easement adjacent to Ellson Court should be redesignated as a Street Drainage and Utility Easement.
- I. The dimension on the east line of Lot 5, Block 1, needs to be changed from 230.94' to 155.72'.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities. The Applicant will eliminate Reserve B from the final tracing.
- K. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. The platting binder indicates that a mortgage is being held in this site. This party shall be shown as a signatory on the final plat tracing or proof provided that the mortgage has been released.
- M. The applicant shall guarantee the paving of the proposed interior street.
- N. "Access control except one opening" should be deleted and replaced by complete access control being platted for the plat's frontage along Ellson.
- O. The building setback line should be denoted by a dashed line.
- P. Traffic Engineering shall comment on the parking easement for back-out parking that is platted within a street curve. The Subdivision Regulations require parking easements to be a minimum of 20 feet deep and have a maximum street frontage of 50 feet. The perimeter of the parking easements shall be redrawn to comply with these requirements. The applicant has agreed to revise the parking easement dimensions.
- Q. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- R. Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street, drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- S. City Fire Department needs to comment on the plat's street names. The street name is acceptable.
- T. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- U. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- V. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- W. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- X. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Y. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management

practices be used to reduce pollutant loadings in storm water runoffs.

- Z. Perimeter closure computations shall be submitted with the final plat tracing.
- AA. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- BB. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- CC. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.
- DD. A sewer easement needs to be platted through Lot 5 and Reserve A to cover an existing sewer line.

**WARREN** "How much time do you want on this, Marvin?"

**KROUT** "We can do it indefinitely and then send you a notice when it is scheduled? Is that preferable?"

**ALLISON** "Yes."

**MOTION:** That the item be deferred indefinitely.

**WARREN** moved, **CARRAHER** seconded the motion, and it carried unanimously (11-0).

**OSBORNE-HOWES** "I thought we decided that we didn't like to have things deferred indefinitely."

**KROUT** "Well, that is on zoning cases. This is a plat, and sometimes it is months before a plat will come before you."

**GAROFALO** "Is there any other discussion?"

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Carraher left the meeting at 5:10 p.m.

**9a.** **Case No. CUP2000-00022; DP154#3** - Amend CUP 154#3 to permit General Office uses on Parcel 6 and amend the CUP to permit Limited Commercial uses on Parcel 7; and

**9b.** **Case No. ZON2000-00027** Zone change from "B" Multiple-family Residential to "GO" General Office, and "GO" General Office to "LC" Limited Commercial, on property described as:

Lots 1 and 2, Block 1, Hanley 2nd Addition, an Addition to Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of 21<sup>st</sup> Street North and Webb Road.

**DALE MILLER**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is requesting amendments to the Hanley Residential Community Unit Plan (DP-154 #3) located southeast of 21st Street North and Webb Road. The proposed amendments would: 1) rezone Parcel 6 ("B" Multiple-family Residential to "GO" General Office) to permit "General Office" uses plus "financial institutions", 2) rezone Parcel 7 ("GO" General Office to "LC" Limited Commercial) to permit "Limited Commercial" uses, except adult entertainment, drinking establishments, general automotive including auto and auto parts sales, service repair and fuel dispensing; 3) eliminate a 54-foot wide roadway (identified as Shadybrook on DP 154#2) and add that acreage to Parcels 6 and 7; 4) waive a side yard setback requirement for the north side of Parcel 7 adjacent to the Hanley Commercial CUP; and 5) delete item 24 of the existing CUP prohibiting cul-de-sacs in excess of 600 feet from Webb Road on Parcel 6 if the site develops with uses other than an assisted living facility. The applicant has agreed to a 20% maximum floor area for Parcel 6 (396,396 sq. ft. lot area), and a 23.5% maximum floor area for Parcel 7 (42,512.5 sq. ft. lot area). Maximum floor area / building coverage would be 79,279 square feet for Parcel 6 and 10,000 square feet for Parcel 7. Permission to use standing seam metal roofs is also being sought for non-residential uses on Parcels 6 and 7.

Currently, Parcel 6 is 8.2 acres in size and would increase to 9.1 acres. The parcel is currently restricted to assisted living, single family, zero lot line, cluster single-family, patio homes, duplexes, four-plexes, town houses, clubhouse, swimming pool, tennis court and other accessory uses permitted in the "B" district. The maximum number of units permitted for an assisted living facility is 60 units, or 100 dwelling units for other residential uses.

Parcel 7 is currently .67 acres in size and would increase to .98 acres. The parcel currently permits: apothecary, medical and / or dental clinic, optician and general office use, single family, zero lot line, cluster single family, patio home, duplex, four-plex and town house uses. One office building or eight dwelling units are currently permitted. Office uses are restricted to 8,750 square feet of maximum floor area (30% of the parcel area) while residences are restricted to eight dwelling units per acre.

Parcels 6 (Lot 2, Hanley Second Addition) and 7 (Lot 1, Hanley Second) are currently restricted by the Hanley Second Addition to one opening each. The Hanley Commercial Addition, located just north of the application area, has a third access point that is proposed to be 64 feet north of the north boundary line of Parcel 7. That places three access points within 340 feet of each other. To further complicate the issue, the Legacy Park Wilson Estates Addition, has approval for openings that do not match up with, or are not offset far enough (150 feet), from the Hanley openings to comply with accepted spacing standards. If approved, this application will increase the potential average daily traffic (ADT) volume from 1,175 ADT to 2,223 ADT, a 52 percent increase. Parcel 6 could increase from 1,000 ADT to 1,585 ADT. Parcel 7 could increase from 175 ADT to 638 ADT.

CASE HISTORY: DP-154 was approved by the MAPC in July of 1986. After a series of platting extensions, the Hanley Addition was recorded in 1994. Amendment 1, a request for apartments, was withdrawn in 1994. In 1995, Amendment #2, a request for multi-family and office uses, was approved.

ADJACENT ZONING AND LAND USE:

NORTH: "LC" Limited Commercial; bank and vacant  
SOUTH: "TF-3" Two-family Residential; vacant  
EAST: "B" Multiple family; apartments  
WEST: "LC" Limited Commercial / "GO" General Office; retail and vacant

PUBLIC SERVICES: Public sewer and water services are available. Webb Road carries an average traffic volume of 14,532 vehicles per day. Webb and 21<sup>st</sup> Street intersection is an improved five-lane facility with free-flow right turn lanes. Webb Road is not a five-lane facility at the entrance to Parcels 6 and 7. The applicant should participate in Webb road improvements – left turn lane and right-turn decel lane. If approved as staff recommends, a vacation of access control will also have to be processed.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide depicts this site as appropriate for "high density residential" uses. This category includes densities in excess of 10 units per acre and includes nursing homes, garden apartment and condominiums. Neighborhood commercial centers ranging from 4-15 acres in size are typically expected to develop at one or more corners of the intersection of arterial intersections. Neighborhood oriented office uses should take place as part of planned commercial centers. Commercial sites should be located adjacent to arterial streets and provide ingress and egress in order to avoid traffic congestion. Commercial development should have design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential uses. Locate commercial uses in compact clusters.

RECOMMENDATION: The proposed land use changes are reasonable, but the number of access points along Webb Road should be more limited in order to avoid traffic problems in the future. Access to Parcels 6 and 7 should be decreased to one joint access point. That access point should line up with the access point located across Webb Road on the Legacy Park Wilson Estates Addition (approximately 760 feet south of the centerline of 21<sup>st</sup> Street to the center of the access point). The applicant's position is that he gave up one access point along Webb when he platted the Hanley Commercial Addition in order to obtain the access point to Parcel 7. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. APPROVE the zone change (ZON2000-00027) to "GO" General Office for Parcel 6 and "LC" Limited Commercial for Parcel 7.
- B. APPROVE the amendment to the Community Unit Plan (DP-154 #3).
- C. Revise the building setback line shown on Parcels 6 and 7 to 35 feet.
- D. Amend General Provision 6 (C) to provide a landscaped buffer per landscape code along the east and south property line of Parcel 6 in lieu of a screening wall or fence.
- E. Revise General Provision 8 (C) to state: "The maximum square footage of signage of sign area permitted for pole or ground signs shall be calculated at 0.8 sq. ft. per linear street frontage for Parcel 7. Parcel 6 shall be allowed one monument sign up to 96 square feet along Webb Road. An additional monument sign up to 128-sq. ft. in size shall be permitted on Parcel 6 provided the sign is located 112 feet away from Webb Road.
- F. Revise General Provision 20 to add: "The owner(s) of Parcels 6 and 7 shall be responsible for the installation of any required masonry walls."
- G. Amend Parcel 6 "maximum floor area" square footage from 40% to 20% and 79,000 square feet. Non-habitable basement space shall not count against the maximum floor area allowance.
- H. Amend Parcel 7 "maximum floor area" square footage from 40% to 30% and 10,000 square feet. Non-habitable basement space shall not count against the maximum floor area allowance.
- I. Access Control: Parcels 6 and 7 shall share one point of access that lines up with the access point located across Webb Road on the Legacy Park Wilson Estates Addition (approximately 760 feet south of the center line of 21<sup>st</sup> Street to the center of the access point). If the C.U.P. is amended to provide access to Parcel 6 from 19<sup>th</sup> Street, then the decel land along Webb Road for Parcel 6 and 7 would not be required.
- J. Webb Road Improvements: The applicant should guarantee his share of left turn and right turn decel lane improvements to Webb Road, prior to the issuance of any building permits.
- K. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. Three of the four corners at the intersection of Webb and 21<sup>st</sup> Street North has been approved for retail commercial, office or multifamily uses. The fourth corner has a City of Wichita water pumping station. The properties closest to the application have been zoned for "LC" Limited Commercial, TF-3 Two-family Residential, "B" Multi-family Residential or "GO" General Office uses. Most to the property adjacent to the application area is just beginning to be developed.
2. The suitability of the subject property for the uses to which it has been restricted. The site is currently restricted to office and multi-family or less intense uses. The property has been available for development since 1994. It is possible that the site could be developed as currently zoned. However, given all the other multi-family projects that have been developed across the city, it is unlikely that Parcel 6 would develop very soon with higher density residential uses, and the site is probably too small to attract single-family development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Given the improvements to Webb and the land uses already approved for the general area, staff can not identify any detrimental impacts which are likely to result from approval of this request that are not addressed by the conditions of approval.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposal is consistent with locational guidelines for office and retail uses.
5. Impact of the proposed development on community facilities: Traffic volumes may increase 310 percent as a result of this request. Therefore, the applicant should reduce the proposed office density, combine access points as requested, and provide guarantees, as needed.

**MILLER** "Commissioners, this is a request to amend the Community Unit Plan that is located roughly at the southeast corner of 21<sup>st</sup> Street North and Webb Road. There is a revised staff report at your table. It is unnumbered, but we were working with the applicant until late yesterday trying to resolve issues and we have them all resolved, I believe, except for one.

There are approximately 6 amendments that would be accomplished by this particular request. The two key ones are to rezone Parcel 6 to 'B' Multiple-family residential to 'GO' General Office to permit General Office uses, plus financial institutions, and to rezone Parcel 7, which is currently 'GO' General Office to 'LC' Limited Commercial to permit Limited Commercial uses except the usual suspects of adult entertainment, drinking establishments, automotive sales, repairs and fuel dispensing. The other items are listed there, and I won't go into those, but those are the two main ones that would be accomplished if this is approved.

The main point of contention between staff and the applicant is the point of access control. With the current application and what I had hoped to do with this is I matched up the two CUPs that exist here. (Indicating) This would be 21<sup>st</sup> North here and Webb Road there. The Wilson Estates CUP has currently an access point that is approximately here (indicating) that serves the Walgreen site that is nearing completion. The Hanley commercial CUP has an access point here (indicating), which doesn't line up with anything in particular across the street, and then here is Parcel 7, Parcel 6 of what is being considered today.

The Hanley Residential C.U.P. currently has an access point to Parcel 7 and an access to Parcel 6. Across the street is an access point for the Wilson Estates. What staff is wanting to do is eliminate one of these access points between Parcel 7 and Parcel 6 and have it match up with what was granted across the street so that we don't have these two access points that are so close to the one across the street where you get conflicts in turning movements. I think the acting Traffic Engineer is here to answer specific questions if needed. But that is the main issue is that staff is recommending that one of these access points be removed and that they more or less line up their access point to Parcels 6 and 7 across from what is existing here on the Wilson Estates tract.

With the request of increasing from 'GO' to 'LC' uses and from 'B' multiple-family to 'GO', staff is roughly calculating that the traffic would be increased approximately 52 per cent over what would currently be allowed today if it was developed under its current rules.

With respect to relinquishing one of those access points, of course, Mr. Hanley is not in favor of that and feels like that when the Hanley Commercial C.U. P. was approved, he gave up one access point along this stretch where he now only has one, in order to maintain one access point to Parcel 7. So he feels like in order to maintain this one here, he had given this one up in this area when that commercial CUP went through and that background is contained in the recommendation section, but we want to try and present both sides of it equally. I am sure he will be here to impress that point as well.

We are also asking for a decel lane that would serve Parcels 6 and 7 if he does not amend the CUP at some point in the future to get access to 19<sup>th</sup> Street here. If that were to happen, then staff feels like they wouldn't need that decel lane to get into Parcels 6 and 7 and we are asking for guarantees, at least proportional guarantees for a left-turn lane to go off of Webb. I think that is the key issue that we are still debating. I apologize for Page 4 on the conditions. For some reason, on my computer, every time you put parenthesis around something, it turns it into a copyright symbol, and I haven't figured out how to undo that. With that, I would be happy to answer any questions."

**GAROFALO** "Are there any questions of Dale? Okay, we will hear from the applicant."

Warren left the meeting at 5:15 p.m.

**FRED HANLEY** "I live at 439 North Belmont. I am the applicant, but I am wearing two hats actually. I own Parcel No. 7 and I am the trustee on some owners that have Parcel No. 6 and I will address that issue here in just a couple of minutes.

I have a handout that shows pretty much, I think, what Dale has. If you don't mind, I will just go ahead and pass them out. To make this relatively easy, and to Marvin and Dale's credit, we sat down with an interested party on Parcel 6 who is interested in putting some office buildings in, and I think we have worked out all of the detail that would be discussed at this point, and I think the staff and our side are in full agreement, with a very small exception on this entry situation.

About two and a half years ago, we were making some adjustments to the commercial property which is to the north that Dale pointed out to you. Traffic Engineering came to us and said they were very much opposed to all of the access points we had platted out onto Webb Road. Through some fairly extended negotiation, we closed one of those access points and Traffic agreed to allow us to move that down to Parcel 7, which we subsequently platted. So the access points that we have today have gone through a lot of discussion with Traffic, a lot of discussion with Planning and everybody agreed. We followed it up with a plat and now it is kind of coming back to haunt me a little bit.

One of the difficult positions that I would be placed in is the fact that having two different ownerships there, if we followed staff recommendation, we would have to figure out somehow how to transfer title to one parcel over to a trust. Being a trustee, it is a little bit awkward. There is somewhat of a conflict if I were to sell a piece of my land to a trust being a trustee in that situation. The trust has no money, so I am not exactly sure how they would pay for it. It would just get to be kind of a mess to be honest with you. We have had this platted, and frankly, from a developer's standpoint, you always try and stand on some kind of a position. We have spent thousands of dollars on planning; have spent thousands of dollars in platting and have spent lots and lots of time up here with the City, and then to have this issue come back on what I think of as somewhat of whim is very difficult for me to digest.

I would appreciate it if you would accept all of the negotiations that we have had with the Planning Department on all of the other issues and go along with me, at least, and allow me to go ahead and access Webb Road the way we have it already platted. I have that motion in verbal form on the second page of what you have in front of you."

**GAROFALO** "Are you saying that this is the way it is platted?"

**HANLEY** "That is correct."

**LOPEZ** "If this is the way it is currently platted, if I am reading this correctly, you have access to Parcel No. 7 from the access to the north; you have access to Parcel No. 7 from the access to the south..."

**HANLEY** "Now, are you referring to...let me come over and see if I understand what you are saying. (Indicating) You are talking about the little access point here, and here?"

**LOPEZ** "Right."

**HANLEY** "That is simply internal circulation. We kind of think, from a development standpoint, it is helpful to have internal circulation there. I think Planning would go along with that. We incorporated that because I thought Planning would appreciate that. Parcel No. 7 actually, we have been talking to a couple of different users. A small bank was interested at one point, and I think they would like to have their own entry in there. Frankly, that permits some of the stacking that would be involved if we went through to get back into a drive-through on the back end of that building.

Just to amplify on that question, I think the internal circulation is very important for all of us to try and limit as much traffic running out there as we can. But I do think it is important for Parcel No. 7 to have access to Webb Road independent of having to go through other property."

**GAROFALO** "Are there any other questions? I have a real problem here with three access right on top of one another. That's what it looks like. If I am looking at this correctly. You have the one into Lot 7 and the one into Lot 6 there, and then there is something right up the street."

**HANLEY** "Let me start off and kind of talk about the one up in the commercial area. That originally started with McKinley, who was the Traffic Engineer some time ago, and I think some of the thinking that permeated that has gone away.

Our original CUP and plat of the commercial area limited the right in, right out, or the access to that commercial area to go both directions from 400 feet south of the intersection point. Now, when you do that, you have to bring that all of the way down south there. Actually, it would have been a whole lot easier for us had we been able to move it up further, but McKinley just absolutely insisted on that, and we fought that battle and lost it. But they did permit us a second access point up there, which was a small one and again Traffic didn't like that so when we came back, they requested some minor variation. They just jumped on that like crazy and we negotiated to move it down to Parcel No. 7."

**GAROFALO** "And your argument for requiring access to Lot 7, is that two different ownerships or something?"

**HANLEY** "Lot No. 7 is owned by me. Parcel No. 6 is owned by a trust. I don't own both of those pieces. I am the trustee on Parcel No. 6, I am not the owner."

**MICHAELIS** "I hate to keep going over things, but I want to make sure I understand this. Now, you were originally given the access on Lot 7 as a condition of moving the other one?"

**HANLEY** "That is correct."

**MICHAELIS** "I guess I understand where you are coming from, and I think if we were sitting here looking at this from a platting standpoint, we would have to say 'no, we don't want to do that'. But if we have already given something, can we go back and take that away? I guess that is the question I have, is that fair? Maybe that is a question for you, Marvin, I don't know."

**KROUT** "I think that is a fair question to ask. I guess the staff position has been that anytime you are replatting, it may be subject to new and stricter standards. In this particular case, it is not replatting, but it is zoning, and he is asking to intensify the use and increase the traffic generation. So I think there is a relationship between the fact that there is going to be more traffic and we are asking for the traffic to be managed better than it would be with the two driveways."

**MICHAELIS** "Okay, thank you."

**MARNELL** "Are we talking about different pieces of property? Has Parcel 7 already been done?"

**KROUT** "No. He is asking to go from Office to Commercial on No. 7 and from Residential to Office on No. 6."

**BARFIELD** "I understand that you don't have a tenant for No. 7 at this time. Is that right?"

**HANLEY** "We have had some inquiries. I don't have one signed up, and frankly, one of the issues is the access point."

**BARFIELD** "Okay, but I see an access point here off of where you go into No. 6 and it is not a road, but..."

**HANLEY** "The only access that Parcel 6 has, and that is one owner. The only access No. 6 has to any street is through what is platted. Staff has just decided, and I think that is someone capricious, to move that to the north some way. You are dealing with another owner."

**BARFIELD** "How far is the access into No. 7 from the northern access point?"

**HANLEY** "I don't have an answer there, Dale, do you know?"

**MILLER** "Approximately 130 feet."

**BARFIELD** "That is about the same distance then, between the one into 6 to the No. 7?"

**MILLER** "No, it is approximately 8 feet."

**WARNER** "Mr. Chair, am I correct that the change in use will increase traffic from what the present is?"

**KROUT** "Yes."

**WARNER** "More so than a bunch of apartments?"

**KROUT** "Yes. Office zoning will generate about twice the number of daily trips as residential, if the density is approved."

**HANLEY** "The traffic count on there is a little over 14,000 now, and we are adding how many additional cars, Dale? It wasn't very many."

**MILLER** "It would be 1,175 as zoned today. Is what we are showing that these two tracts would generate. It is going to 2,223 if it is approved. That is a 52% increase."

**GAROFALO** "Okay, are there any other questions?"

**HANLEY** "I might just make a couple of point on this traffic thing. Immediately south of all of this property is Eastminster Church which, of course, operates during the day. They do have some traffic in there, but it is very limited. Immediately south of that are the Beechcraft Recreational Lakes, so there is virtually no traffic generated from that. Immediately across from that is the foliage, which has that fancy gate that is almost never open."

So we are not dealing with a high-traffic area, and I wouldn't guess that you are going to generate a whole lot more traffic than where we are when we develop this."

**GAROFALO** "Oh, I don't know about that. It is pretty active now, I would say. I am not sure I could agree with you."

**HANLEY** "Well, I will tell you where you get a lot of that count. When Beechcraft lets out, of course, because Raytheon is down south, a lot of that strays north along there and that is there and then its gone. There is a lot more traffic on 21<sup>st</sup> Street, as you can well imagine."

**GAROFALO** "The intersection of 21<sup>st</sup> and Webb has changed dramatically in the last 6 or 7 months."

**HANLEY** "I think a lot of that is folks trying to avoid a little bit of Rock Road, maybe, but actually if you go out there during various times, a lot of that count is really ingress down to Raytheon from people who are employed down there in the morning and then in the evening heading out. That is a relatively small window."

**GAROFALO** "Are there any other questions of the applicant? Thank you. Is there anyone else here to speak in favor of this application? Anyone to speak in opposition? Seeing none, we will take it back to the Commission."

**PLATT** "I think to approve something on Webb Road where you have two openings on one side and one on the other, you would end up winding up with something almost criminal. It boggles my mind to even think about it. The argument that some of the property in the CUP is not owned by the same owner as some of the others has nothing to do with it. The fact that different people or different group and different trusts own part of the property. Ingress and egress rights can be transferred without buying and selling the property."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood. Three of the four corners at the intersection of Webb and 21<sup>st</sup> Street North has been approved for retail commercial, office or multifamily uses. The fourth corner has a City of Wichita water pumping station. The properties closest to the application have been zoned for "LC" Limited Commercial, TF-3 Two-family Residential, "B" Multi-family Residential or "GO" General Office uses. Most to the property adjacent to the application area is just beginning be developed. The suitability of the subject property for the uses to which it has been restricted. The site is currently restricted to office and multi-family or less intense uses. The property has been available for development since 1994. It is possible that the site could be developed as currently zoned. However, given all the other multi-family projects that have been developed across the city, it is unlikely that Parcel 6 would develop very soon with higher density residential uses, and the site is probably too small to attract single-family development. Extent to which removal of the restrictions will detrimentally affect nearby property: Given the improvements to Webb and the land uses already approved for the general area, staff can not identify any detrimental impacts which are likely to result from approval of this request that are not addressed by the conditions of approval. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposal is consistent with locational guidelines for office and retail uses. Impact of the proposed development on community facilities: Traffic volumes may increase 310 percent as a result of this request. Therefore, the applicant should reduce the proposed office density, combine access points as requested, and provide guarantees, as needed.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. APPROVE the zone change) ZON2000-00027) to "GO" General Office for Parcel 6 and "LC" Limited Commercial for Parcel 7.
2. APPROVE the amendment to the Community Unit Plan (DP-154 #3).
3. Revise the building setback line shown on Parcels 6 and 7 to 35 feet.
4. Amend General Provision 6 (C) to provide a landscaped buffer per landscape code along the east and south property line of Parcel 6 in lieu of a screening wall or fence.
5. Revise General Provision 8 (C) to state: "The maximum square footage of signage of sign area permitted for pole or ground signs shall be calculated at 0.8 sq. ft. per linear street frontage for Parcel 7. Parcel 6 shall be allowed one monument sign up to 96 square feet along Webb Road. An additional monument sign up to 128-sq. ft. in size shall be permitted on Parcel 6 provided the sign is located 112 feet away from Webb Road.
6. Revise General Provision 20 to add: "The owner(s) of Parcels 6 and 7 shall be responsible for the installation of any required masonry walls."
7. Amend Parcel 6 "maximum floor area" square footage from 40% to 20% and 79,000 square feet. Non-habitable basement space shall not count against the maximum floor area allowance.
8. Amend Parcel 7 "maximum floor area" square footage from 40% to 30% and 10,000 square feet. Non-habitable basement space shall not count against the maximum floor area allowance.

9. Access Control: Parcels 6 and 7 shall share one point of access that lines up with the access point located across Webb Road on the Legacy Park Wilson Estates Addition (approximately 760 feet south of the center line of 21<sup>st</sup> Street to the center of the access point). If the C.U.P. is amended to provide access to Parcel 6 from 19<sup>th</sup> Street, then the decel land along Webb Road for Parcel 6 and 7 would not be required.
10. Webb Road Improvements: The applicant should guarantee his share of left turn and right turn decel lane improvements to Webb Road, prior to the issuance of any building permits.

**PLATT** moved, **OSBORNE-HOWES** seconded the motion.

**OSBORNE-HOWES** "I do have a question. Is there anyone sitting around the table that can think of some kind of a compromise of some type? I feel like Mr. Platt. It just seems crazy to me that you would have three accesses and none of them line up. For the life of me, I am trying to think of some kind of a win/win situation. Right now, nothing occurs to me."

**MICHAELIS** "Just so I can make sure I understand, is it possible for these two to line up, or because of the configuration of the Lot No. 7 and the previous one to the north of there. Is that an option, and if this one was platted and Wilson Farms came in here and butted theirs, should we have not made them line theirs up? I think that is probably what should have happened, but since we didn't, and this Parcel 7 was already there and Parcel 6 is already there, I don't know whether we can say to destroy Parcels 7 and 6 to make it line up. I think we might have missed the boat when Wilson Farms platted theirs."

**GAROFALO** "I can't respond to that. I don't know when that was done."

**MICHAELIS** "It wasn't very long ago."

**MARNELL** "Following up on that point, it looks to me like if you attempt to line that entrance up off of Parcel 6 to the one across the street, you are going to destroy Parcel 7. It meets another property."

**MICHAELIS** "Yeah. I don't think I would have a problem supporting the eliminating of the one on No. 7, but it is going to be hard to support trying to line those two up at this point in time."

**OSBORNE-HOWES** "Maybe Marvin can make a comment, but this is all proposed, right? This is all a change in a CUP, it is not like we have buildings out there that were already developed that we are wanting to re-access to, so to me, it ought to be somewhat simple to sit down and do some reconfiguring. I am just trying to think of something that is a compromise. Maybe Marvin can have an idea."

**MICHAEL** "I think you are right, Susan, in what you said, but I guess my question comes back to does the confines of his property, that Parcel 7 follow these property lines? If so, then we are somewhat restricted to what we can do with that because he doesn't own the south part and he doesn't own the north part."

**PLATT** "Well, they can make agreements to allow shared access roads."

**KROUT** "Obviously he has some authority to act because you have applications for both parcels in front of you."

**GAROFALO** "Right. Are there any other comments?"

**VOTE ON THE MOTION:** The motion carried with 6 votes in favor (Platt, Lopez, Osborne-Howes, Barfield, Warner, and Garofalo) and 3 in opposition (Michaelis, Marnell and Hentzen). Johnson, Warren, McKay and Carraher were not present.

**KROUT** "The motion passes. It is a zone change, so it does go on to the City Council. They don't hold a public hearing, but we will let you know what date it will be there."

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10. **Case No. ZON2000-00029** - Woodland Lakes Community Church c/o Tom Wagner (Owner/Applicant); Mid-Kansas Engineering Consultants, Inc. c/o Jason Gish (Agent) request zone change from "SF-6" Single-Family Residential to "MF-18" Multi-Family Residential on property described as:

A tract of land lying in Lot 1, Block 1, Cedar View Addition, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

Beginning at the Northeast corner of said Lot 1; thence S 00 degrees 51'48" E, 710.73 feet along the East line to the Southeasterly corner of said Lot 1; thence S 89 degrees 08' 11" W, 237.40 feet, along the South line of said Lot 1, extended, said line being the North line of Reserve F; thence N 40 degrees 38'08" W, 476.37 feet; thence N 49 degrees 21'52" E, 160.75 feet; thence N 40 degrees 38'08" W, 310.55 feet to a point on the North line of said Lot 1; thence 88 degrees 51'07" E, 617.27 feet along said North line to the point of beginning.



Generally located north of Lincoln and east of Greenwich.

**SCOTT KNEBEL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant requests a zone change from "SF-6" Single-Family Residential to "MF-18" Multi-Family Residential on a 7.27 acre platted tract located north of Lincoln and east of Greenwich. The applicant proposes to develop the site with assisted living facilities and senior independent living duplexes. Access to the site is proposed from Lincoln through the remainder of the applicant's property to the south and west, where a church is proposed for construction. South of the subject property is a reserve owned by the applicant that is platted for drainage detention purposes.

The surrounding area is a developing suburban area with significant amounts of remaining undeveloped property for both residential and commercial/industrial use. The adjacent property west of the site is zoned "SF-6" Single-Family Residential and is the proposed site of the Woodland Lakes Community Church. The property north of the site across the Kansas Turnpike is zoned "LI" Limited Industrial and "GC" General Commercial and is undeveloped. The adjacent property east of the site is zoned "SF-6" Single Family Residential and is currently under development with the Seltzer Elementary School. The adjacent property south of the site is zoned "SF-6" Single-Family Residential and is developed with single-family residences in the Windsor Park Addition.

**CASE HISTORY:** The site is in the Cedar View Addition, which was recorded May 20, 1999.

**ADJACENT ZONING AND LAND USE:**

NORTH: "LI & GC" Undeveloped  
SOUTH: "SF-6" Single-Family  
EAST: "SF-6" Elementary School  
WEST: "SF-6" Undeveloped

**PUBLIC SERVICES:** The site has access to Lincoln, a two-lane collector street with no traffic volumes available. Public water and sewer service are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Low Density Residential category provides for the lowest density (1 to 6 units per acre) of urban residential land use and consists of single-family detached homes, zero lot line units, cluster subdivisions, and planned developments with a mix of housing types that may include townhouse and multi-family units. The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill, and higher density residential development, that maximizes the public investment in existing and planned facilities and services. The objective is intended to be achieved through the following strategy: use Community Unit Plans, Planned Development Districts, and zoning as tools to promote mixed use development, higher density residential environments, and appropriate buffering.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is a developing suburban area with significant amounts of remaining undeveloped property for both residential and commercial/industrial use. The adjacent property west of the site is zoned "SF-6" Single-Family Residential and is the proposed site of the Woodland Lakes Community Church. The property north of the site across the Kansas Turnpike is zoned "LI" Limited Industrial and "GC" General Commercial and is undeveloped. The adjacent property east of the site is zoned "SF-6" Single Family Residential and is currently under development with the Seltzer Elementary School. The adjacent property south of the site is zoned "SF-6" Single-Family Residential and is developed with single-family residences in the Windsor Park Addition.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single-Family Residential, which accommodates moderate-density single-family residential development and complementary land uses. Given the site's location along the Kansas Turnpike between a school and a proposed church and the site's limited size, it is unlikely that it would be suitable for a subdivision of single family residences.
4. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the significant buffers from single-family residences that are provided by the school property and the church property. The nearby property to the north is approved for commercial and industrial development and is separated from the site by a major barrier (the Kansas Turnpike).
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Low Density Residential category provides for the lowest density (1 to 6 units per acre) of

urban residential land use and consists of single-family detached homes, zero lot line units, cluster subdivisions, and planned developments with a mix of housing types that may include townhouse and multi-family units. The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill, and higher density residential development, that maximizes the public investment in existing and planned facilities and services. The objective is intended to be achieved through the following strategy: use Community Unit Plans, Planned Development Districts, and zoning as tools to promote mixed use development, higher density residential environments, and appropriate buffering.

5. Impact of the proposed development on community facilities: The impact of increased traffic from the greater residential density should not exceed the capacity of the collector street. Other community facilities are also adequate to serve the proposed use.

**KNEBEL** "The applicant proposes to develop this site with assisted living facilities and senior independent living duplexes. Access to the site is proposed from Lincoln through the remainder of the applicant's property, which is this property here. The remainder of the property is proposed to be developed with a church.

The area is a developing suburban area with significant remaining property to be developed in the future. There is a school to the east; single-family houses to the south and vacant property to the west, with the exception that there are some single-family houses behind the hedgerow.

The Comprehensive Plan identifies this area as appropriate for low-density residential. The Comprehensive Plan also encourages high-density development through zoning. The Planning staff recommends that the request be approved."

**GAROFALO** "Are there any questions of Scott? Thanks. Is the applicant here?"

**KNEBEL** "Yes."

**GREG ALLISON** "I am with MKEC, Engineering Consultants, Inc., representing the applicant. A little bit of background. As you know, a church is planned to be constructed in conjunction with this site and the zone change that we are requesting kind of goes along with the church plans as part of their ministry and outreach to the community. That is why we are here before you today, seeking this zone change. The plan is, as the staff report says, is for assisted living and some twin-home type development. I think that is pretty much the basic idea. We would be happy to answer any questions you might have."

**GAROFALO** "Are there any questions? None. Thank you. Is there anyone else here to speak in favor of this? Is there anyone to speak in opposition. Seeing none, we will take it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is a developing suburban area with significant amounts of remaining undeveloped property for both residential and commercial/industrial use. The adjacent property west of the site is zoned "SF-6" Single-Family Residential and is the proposed site of the Woodland Lakes Community Church. The property north of the site across the Kansas Turnpike is zoned "LI" Limited Industrial and "GC" General Commercial and is undeveloped. The adjacent property east of the site is zoned "SF-6" Single Family Residential and is currently under development with the Seltzer Elementary School. The adjacent property south of the site is zoned "SF-6" Single-Family Residential and is developed with single-family residences in the Windsor Park Addition. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single-Family Residential, which accommodates moderate-density single-family residential development and complementary land uses. Given the site's location along the Kansas Turnpike between a school and a proposed church and the site's limited size, it is unlikely that it would be suitable for a subdivision of single family residences. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the significant buffers from single-family residences that are provided by the school property and the church property. The nearby property to the north is approved for commercial and industrial development and is separated from the site by a major barrier (the Kansas Turnpike). Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Low Density Residential category provides for the lowest density (1 to 6 units per acre) of urban residential land use and consists of single-family detached homes, zero lot line units, cluster subdivisions, and planned developments with a mix of housing types that may include townhouse and multi-family units. The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill, and higher density residential development, that maximizes the public investment in existing

and planned facilities and services. The objective is intended to be achieved through the following strategy: use Community Unit Plans, Planned Development Districts, and zoning as tools to promote mixed use development, higher density residential environments, and appropriate buffering. Impact of the proposed development on community facilities: The impact of increased traffic from the greater residential density should not exceed the capacity of the collector street. Other community facilities are also adequate to serve the proposed use.) I move that we recommend to the governing body that the request be approved, subject to staff recommendations.

**OSBORNE-HOWES** moved, **LOPEZ** seconded the motion, and it carried unanimously (9-0).

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#### **11. Public hearing on Wireless Master Plan and associated Zoning Amendments**

**JOE PAJOR** "I am Natural Resources Director for the City of Wichita. I served as the chairperson of the Joint City/County Staff Task Force on the Wireless Master Plan issue. Based on verbal and written comments received from representatives of the impacted industry, the MAPC has asked the Staff Task Force to meet again with industry and discuss their needs after hearing this issue on June 15.

That meeting did occur on July 7 where industry representatives met with City staff. As a result of that meeting, some additional considerations were determined by the staff to be appropriate. Since that time there were also some requests made from wireless Internet providers regarding specifically the issue of lightweight lattice towers. After receiving those requests for additional consideration, the staff did make a couple of additional changes. As a result of that, there have been really two rounds, one significant and one much smaller, of changes since the last time this was before the Planning Commission.

At this point in time, I believe that you are going to hear, this afternoon, from industry representatives that are going to continue to ask for more in terms of flexibility and expediting the process. I also believe that you are going to hear from neighborhood representatives that are concerned that this plan has already gone too far in its recommendation in terms of streamlining the process and removing from neighbors their proper due course for impacting these types of changes.

At this point, my recommendation to you would be that the plan, as presented, be approved. That we move forward with the approval process to the governing bodies. That the MAPC may wish to make, as a part of their recommendation to the governing bodies, that the plan would be reviewed in 12 to 18 months, sooner if requested by the Director of the Planning Department, so that we can actually get this plan on the street, see how it functions and determine any fine tuning or changes that might be needed.

Scott Knebel from the Planning staff will present the particulars in terms of the changes, since this item was before you in June. I would be happy to answer any questions you might have now or later, as appropriate."

**GAROFALO** "Are there any questions of Joe? Okay, thanks."

**SCOTT KNEBEL** "The first page there summarizes the changes that have been agreed to, essentially I can go through those quickly. Several changes have been added to the plan since you it was last before you. Different types of co-locations, mounting antennas to roofs, to existing towers, modifying towers and those types of things have been changed from an administrative permit, which would require a sign posted on the site and would be subject to conditions of approval. They have been changed to be permitted simply with a building permit as long as those applications complied with the guidelines of the plan.

Also, the height for towers in the Limited Commercial district has been increased 20 feet to 85 feet for administrative approval. The compatibility height setback has been modified to a default of 1 foot of setback for each foot of height of the tower. This is a change from one that was essentially a 3-1 setback previously. This also provides administrative discretion to reduce or entirely waive that setback where appropriate.

As Joe mentioned previously, we have also provided the ability to, by building permit, allow lightweight towers no larger than 18 inches on a side up to 80 feet in any district and higher than that in the General Commercial and more intensive districts. Speaking of those towers, you do have a letter from Connectivity Services; there is also a response to that letter. The materials you received are out of order, the response is not immediately behind the letter, but is actually the last two pages of the attachment that has the letter from Connectivity services.

I will briefly go through that. We are, as the staff, recommending a few minor changes to the proposal that is before you to address the concerns that are in that letter. One of those being that the lightweight lattice towers that are 18 inches on a side by their nature could not be designed in any fashion to provide co-location for any type of carrier. They would be limited to co-location of the types of antennas for which they are designed. Therefore, we are recommending that slight modification to the wording regarding co-location requirements for those types of towers that removes the requirement for any type of carrier, but does still require that reasonable accommodation be made to co-locate antennas that those towers are designed to address.

In addition to that, there were some issues brought up regarding the height of towers whether they are mounted to the ground or to the top of a building. Essentially, the way the plan was worded before, if a tower was mounted to the top of a building, it could only be 20 feet above the height of the building. The intent, when that was placed in the plan was to prevent very tall towers being placed on top of very tall buildings. It was not intended to prevent an 80-foot tower that could be built on the ground next to a 40-foot building, but not be built on top of a 40-foot building. So we recommended some minor changes that go along with that.

You also have some comments from Austin Miller regarding some things that have been brought up before. These are issues that have been discussed several times previously and are not included in the plan because they are not recommended by staff. Then you have some concerns from the neighborhoods, from Nile Dillmore regarding the setback requirement and the fact that it has been reduced and that it is not applicable to property as it is developed, but as it is zoned. The request from Mr. Dillmore is what was in the plan when it was first presented to staff and actually made it through several versions, but it has been slowly whittled away. The abandonment clause also mentioned in Mr. Dillmore's memo mentions a reporting requirement, which was in the first draft of the plan has since been removed. Also, Mr. Dillmore has mentioned that he is not interested in the approval of the lightweight lattice towers in any zoning district.

I do have one statement here that I would like to read verbatim. This is from Curtis Holland with the law firm of PWBS. He asked that this be read into the record. It says:

'On behalf of my clients, Sprint PCS and Southwestern Bell Wireless, I would like to thank the task force and your staff for all of your hard work and willingness to meet and discuss our concerns with regards to this matter. I believe that the hard work paid off and my clients are now willing to support the proposal as drafted. We believe the concessions made by both sides strike a good balance between the interests of the public to mitigate the perceived visual impact of communication towers and my client's interest in providing the best and most affordable service possible to their customers. The current proposal certainly adds more rigorous requirements in terms of justification of sites, location of facilities and performance standards, but if it is implemented in the same spirit as it was brought to the table during those discussions, we believe it to be a workable plan. Once again, thank you for your continued willingness to hear us on these important issues'.

With that, I will close my comments and make myself available for questions."

**GAROFALO** "Are there any questions of Scott?"

**PLATT** "Where can I go and see one of these lightweight lattice towers that are no more than 18 inches wide?"

**KNEBEL** "The most recent one I know of that has been constructed is attached to the side of an apartment building on Woodlawn, just south of 37<sup>th</sup> Street. It is the southernmost apartment building on Woodlawn, just south of 37<sup>th</sup> Street."

**PLATT** "Are these, then, typically attached to something?"

**KNEBEL** "They can be attached to something and they can be ground mounted."

**PLATT** "You have an 18 inch wide, 80 foot high tower that is ground mounted?"

**KROUT** "It could be guyed to the ground."

**KNEBEL** "They are not always self-supporting, that is true."

**GAROFALO** "I have a couple of questions. On your memo, the first item, 'creating a third tier of review'. I looked through this thing and I could not find that. Where is it, in the plan?"

**KNEBEL** "Yes, I believe it is on Page 12 of the plan, Item No. 1. That is the first tier of review. A,B,C and D, anything that met those conditions would be approved with a building permit. On Page 13, Item No. 2, A,B,C and D under that, anything that was meeting those conditions would be approved with an administrative permit and then essentially anything else would require a Conditional Use."

**GAROFALO** "Okay. Now, I have found that and I can maybe look at that. I have a problem with No. 2 from the standpoint of, if I understand this correctly, an Administrative Permit for all districts, including the residential districts?"

**KNEBEL** "Yes, that is correct. Residential districts up to 65 feet. That has essentially been the proposal all along. The original proposal was up to 40 feet and was quickly changed to 65."

**KROUT** "The change in what we previously brought to you is to allow them to go to 85 feet by Administrative Permit in the 'LC' district."

**MCKAY** "Instead of coming back to us."

**GAROFALO** "Right. So the 85 feet would apply to all districts?"

**KNEBEL** "It would apply to Limited Commercial."

**GAROFALO** "Just Limited Commercial?"

**KNEBEL** "Right. And 65 feet in the more restrictive districts than Limited Commercial and then the less restrictive would be 150 feet."

**GAROFALO** "So the 65 feet limit would be for..."

**KNEBEL** "Administrative approval."

**GAROFALO** "For all districts."

**KROUT** "Right. Except for 80 feet for the lightweight towers. The more you defer this, the more complicated it becomes."

**GAROFALO** "I can understand that. I also didn't quite understand in No. 3, the third sentence 'in addition, it is recommended that the zoning code be amended to allow staff to consider reducing or fully waiving this standard for all structures by Administrative Permit'. What does all of that mean?"

**KNEBEL** "Essentially, the setback standard would be one to one. In other words, if you had a 150-foot tower, you would have to be setback from the adjacent property line 150 feet. If you didn't want a set back of 150 feet, you could apply for a zoning adjustment and receive administrative approval if you met those criteria to reduce the setback to something less than 150 feet, or to waive it entirely so that the only setback would be the setback in the zoning district."

**GAROFALO** "Okay. Well, I still have some concerns about even 65 feet, but I wasn't here for the first go-around. That is why some of this is confusing. For some reason, on the second page of the proposed amendments, I had Item No. 3 circled. Does that relate back to this item here?"

**KROUT** "Right. That is the Administrative Permit. Anything there can be a new tower that could be approved administratively without a Conditional Use and without a public hearing."

**GAROFALO** "All right. Think I have another question. Yeah, why, on Page 120 of the zoning district standards, it looks like, in Item No. 3, 'no commercial advertising signs shall be allowed on the tower'. That was taken out?"

**KNEBEL** "It was removed from item No. 3 in order to stay consistent with the numbering and is now in Item No. 6."

**GAROFALO** "Oh, so it is somewhere else."

**KNEBEL** "And the wording has been changed to clarify what types the signs implies."

**GAROFALO** "Okay. Are there any other questions of Scott? Is there anyone else here that wants to speak on this?"

**CARLOS ECHART** "I represent Connectivity Services here in Wichita. We do networking services and Internet services. We like to think the staff for all of the help they provided to us with all of the information that we required from them. The Plan is not perfect; we had a lot of issues in there that they helped with some of. Not with all of them. But we feel at this point it is something that we are comfortable with. We would like to have no more deferrals, and to have the plan acted on today, if possible. Thanks."

**GAROFALO** "Are there any questions?"

**BARFIELD** "Carlos, if I understand you correctly, your position that you are stating today is totally different than it was in the letter we received?"

**ECHART** "Right. That was a letter that I wrote about three days ago. They have the answer to that in the last couple of pages in there. They basically took about two or three of my points in there and they made some changes. Some of the other things I was asking for, of course, they didn't agree with, but it is something I can live with."

**GAROFALO** "Are there any other questions? Thank you. Is there anyone else to speak?"

**NILE DILLMORE** "My name is Nile Dillmore. I am here representing Wichita Independent Neighbors as President of that organization. Staff did a good job of outlining what our concerns are. Primarily, I wanted to re-emphasize the point that comes to mind for older neighborhoods that have zoning overlays that are really not appropriate to their developed uses. All of the setback requirements, all of the various height requirements are dependent upon single-family or duplex zoning, and yet many neighborhoods, such as Delano, Mid-Town, Riverside, and quite a few other neighborhoods within the community have very broad zoning that is much higher than that and does not take into consideration the fact that they are primarily developed as single-family residences or duplex residences.

The other area that I wanted to highlight has to do with the abandonment clause. We understand that once a tower is unused for 12 months, that there is a requirement to reduce its height or to remove that tower, but yet, what is really going to signal anyone that that tower is no longer in use. A simple re-certification requirement, and we are proposing every four years, doesn't seem to be that great of a burden on the tower owner or the tower providers, so that they can re-certify

every four years that that tower is still in use and being utilized at 100 percent. The rest of the points, I think, have been submitted to you in writing and I would answer any questions you have at this time."

**MARNELL** "Instead of burdening business with one more regulation as you are proposing, why don't you burden City staff or MAPC staff and have them send out a letter asking if they are in compliance and have them certify just by replying?"

**DILLMORE** "Anything that would make that identification of whether that tower is still being utilized at 100 percent, whether that is a once every four year re-certification that is requested by Central Inspection or the Planning Department, whoever the appropriate agency would be is of no consequence to us, just as long as there is a process there that does, in fact, certify that it is in use."

**MARNELL** "Would you have any objection to also having you certify that you are using your property in compliance with all of the ordinances of the City as well?"

**DILLMORE** "Would I have any problem certifying that I live in my house and conduct my personal business there? No, Ron, I would do that any time you would ask me to."

**MARNELL** "Well. I don't think we are going to get all of the folks in the City to agree to that."

**DILLMORE** "I thought you were asking me. I am not speaking for all of the folks in the City."

**MARNELL** "I am not in favor of passing more frivolous codes like that."

**OSBORNE-HOWES** "Mr. Dillmore, do you have any recommendations on rewording regarding single-family zoning?"

**DILLMORE** "There was a footnote on one of these drafts, I think it appeared in the most recent one that we got, on Page 13, that indicated that the compatibility height standard should be amended in the future so they are applicable when towers and other structures are adjacent to property developed with single-family or duplex uses regardless of zoning and vacant properties on 'TF-3' Two-family residential or more restrictive."

**OSBORNE-HOWES** "So are you comfortable with that?"

**DILLMORE** "I am comfortable with that, yes."

**GAROFALO** "Are there any other questions? Okay. Next speaker."

**TIM AUSTIN** "Good evening. I am with Austin-Miller. You have a copy of my memo and some of the recommending changes that I was recommending. While staff has done a very good job of providing you with a nice, thick package of information, the thing that staff has not told you guys as the Planning Commission, they have not discussed causes and effects. Simply put, the plan talks about two values to the community. It talks about co-locates and the requirement to co-locate and the need to minimize towers, but it also talks about shorter towers. What you have to understand is that those are opposite. You can't have short towers and co-locates. They are directly opposed to each other.

The other thing about the causes and effects, is that the plan, if you adopt it as it is presented will result in a proliferation of towers. The way I understood it, we wanted to minimize towers. In residential neighborhoods, it is not going to be inconceivable for somebody to buy a house, tear it down, and stick up a 65-foot tower in the middle of the residential area, by right. I am not sure that is what everybody wanted either, as far as what I understood values of the community to be.

So the language I propose, really, I think is a compromise position. I don't think a 130-foot tower is a tall tower. What we were suggesting, basically, is to take away by right, anything in residential and make it Conditional Use. Add a little bit of height into the 'LC' zoning district because quite frankly, if you look at the inventory of properties and the properties that are most adjacent to residential, it would be 'LC' zoning. Add a little bit of height and it would provide the industry with a little greater incentive to co-locate. If you don't do it that way, if you think the value is to have short towers, approve it as it is and you are going to see a lot of short towers.

I would imagine that Commissioner Marnell is certainly aware of what is the 'third generation technology' that is just out. I wish I would have brought it. There is an industry publication that just talked about the 3G Technology. Sprint is currently getting ready to roll that out in several markets. It is estimated that the number of towers will increase by five-fold for third generation technology. What the 3G Technology is basically the integration of your cell phone with a palm pilot and a personal computer. So obviously, there is going to be an explosion, at least that is the way the business world sees it, an explosion of users.

Another thing, and I know there are some other speakers who are going to say that current carriers and Scott has indicated that Southwestern Bell and Sprint are okay with the plan. They should be okay with the plan. They are mature carriers in the market and their system is up and running. What you have though, is you have three other carriers who are about to enter this market and quite frankly, this plan will not fit their needs. In some cases, it discriminates against them. Many of them rely on the same technology, the heights that they need on towers, or the same locations.

The third thing that we added was just something, and again Scott said that I had been opposed to it, and that is this demonstration of need. You heard, at the last meeting, the wireless industry doesn't agree with that. They think it is

offensive; they don't spend the money and do their homework and RF studies not to know where a tower would need to be, so I offered up some compromise language. If you are at 13<sup>th</sup> and Woodlawn and somebody wants to build a tower across the street from Highland Manor, yeah, they probably should demonstrate a need for the tower as to why somebody can't go on Highland Manor. But as somebody who works in this business, and you guys have your own cell phones, if you get a block signal or a dropped call, or your phone kicks over to roam because you are not getting any signal and you are at 21<sup>st</sup> and Amidon, it isn't rocket science to figure out that somebody needs to provide some service in there and to look around and determine how are they going to provide that service.

That is why we offered up that compromise language that if there are no structures or basically no opportunities within half of a mile location of where a tower is being proposed, that there wouldn't necessarily need to be a demonstration of need.

Basically, that is it. I think the language are fairly minor, but they are very significant in what it means to the community. Again, it is to eliminate use by right in anything more restrictive than 'LC' zoning. In my opinion, working in the business and from what I see coming, it is going to reduce the number of towers and it actually encourages co-location. The plan, as it exists today, doesn't necessarily achieve that. What is going to result is more towers and less co-locates. With that, I would be happy to answer any questions."

**BARFIELD** "What is your definition of short towers?"

**AUSTIN** "That is kind of subjective, isn't it? If you look around the community, and we can open the blinds and look, you can see a lot of tall towers. There the radio towers; AM towers, FM towers, 500-feet tall guy towers. You will see towers anywhere from 80 feet, if you want to call that a tower, like the lattice towers that will probably be used for the Wireless Internet service, anywhere from 80 to 500 feet.

I brought some photos because I couldn't get them up last time on my computer disc that I brought to the last meeting, but we do have utility poles that run right down people's back or front yards, and they can range anywhere from 75 feet to 120 feet tall. In my opinion, basically in the community, if you are looking at utility poles that 75 to 120 feet tall, I don't think a 130-foot tower, in my mind, is tall. I would say that that is a medium sized tower. What it will do, at 130 feet, with most of the carriers, is it will provide you with a co-location opportunity at 130 feet, 120 feet and 110 feet and 100 feet. An 85-foot tower provides you with zero co-locational opportunities.

The other thing, and I stressed this last time, is if a carrier is at 130 feet and you force him down to 85 feet, it is not a 1-1 thing, it is like a 1-6, so it would take him like 6 additional towers to achieve the same level of service as that tower at 130 feet would."

**PLATT** "Would it be out of order to ask Mr. Dillmore if he had any comments on Mr. Austin's comments?"

**GAROFALO** "About what?"

**PLATT** "His suggestions about residential areas.

**MICHAELIS** "He said to eliminate them."

**PLATT** "I know it. And that is what I wanted to see."

**GAROFALO** "Okay."

**AUSTIN** "Let me address Commissioner Michaelis. I didn't say eliminate. You could still do residential, but it would be by Conditional Use."

**MICHAELIS** "You just couldn't go out and get it without a permit."

**GAROFALO** "That was my concern about this thing, too. I would like to hear from the staff about that point, about the residential, being in a residential, we could go and stick up a 65-foot pole."

**KROUT** "I think that did come out of, if you remember, that the original recommendation from the consultant was anything over 40 feet, so that could be reviewed conditionally, and then we got to talking about what the needs are in the future and about what the utility poles typically are, and I think that there are a lot of poles in the community that are in the 65 foot range or 70 to 75 foot range. There are very relatively few transmission towers in town that are in the 90, 100 or 120 foot range. But you do typically find these taller poles now along major streets and in every neighborhood in town. I think KG&E has replaced a lot of the shorter poles for the taller poles now. It is a trade off and the trade off of having sometimes some shorter poles, but poles that look like utility poles that are thin and unobtrusive that people are used to, are maybe less unobtrusive than seeing those 120 foot towers that are looming over the whole neighborhood.

When we talked to the WIN people, as part of our discussions over the winter months, we asked them that question. We said 'do you have a choice between a taller, more prominent pole or maybe several shorter poles that were less prominent, what is your choice?' and they said several shorter poles. That is what they told us.

I guess I would also suggest that any company that would have to look at the options of building 6 short poles as opposed to one tall one is going to apply for a Conditional Use process. The economics are going to suggest to him that he can

pay our moderate fee and go through the public hearing process. I think unless and until this community starts to get saturated with 120-foot towers and says 'I guess they are okay', I think for the next year or so, it is a good idea to put those through public review. That's all."

**GAROFALO** "Your comment about somebody can tear down a house and put up a pole....it would still have to be administratively heard."

**AUSTIN** "Not if they met the setback requirements. The other thing I think we need to keep in mind is while in some neighborhoods there are tall utility poles; in a lot of the newer subdivisions like where I live, we have no utility poles."

**MICHAELIS** "We'll have to get some out there where you live."

**AUSTIN** "Actually, I want a tower in my back yard. I need the money."

**KROUT** "Well, the guidelines are actually flexible enough now that we have suggested that you could waive the 1to1 setback requirements, that we should be able people to put them in their back yards and you won't need to tear your house down."

**GAROFALO** "So is it a big chore, I know it is probably going to take more time and what not, and some money, I suppose, but is it a big chore to have the Conditional Use permit in the residential? What is the main barrier to that from their standpoint?"

**KROUT** "We think if you make the process easier than people may gravitate toward the easier process. The other point I guess I would make is that we do allow today, 65-foot towers for private dispatch and ham operated radios. In fact we are required by FCC to do that. You will see some towers of that size in residential neighborhoods and there isn't anything we can do to regulate those. So, that was the feeling was that if we wanted to encourage those shorter poles, then we should make it easier for them. And if people are going to take the time to go through a Conditional Use process, they are probably going to ask for a maximum height tower they can get."

**GAROFALO** "Are there any other questions? Thanks, Tim. Is there anyone else to speak?"

**GREG FERRIS** "Thank you. I will be very brief, Mr. Chairman, I know the hour is late. I am representing AT&T Wireless Services. AT&T is in favor of a couple things. One is of the passage of something today. I think they are tired of paying me is what the deal is. When this is passed, they won't have to pay me any more. We are ready to get down the road on this.

Second, you will hear the neighborhood say that something isn't right, and you are going to hear the industry. Frankly, there are a lot of things in here I would change. I recommended that we try to get those changed. We worked hard, we tried to get as much changed as possible, but AT&T's position is that this represents a compromise, it represents a good compromise. You can build a utility pole, a light pole at 65 foot today. We feel that that is reasonable. But with the provision now of an 85-foot in Light Commercial, it is going to be more that we are going to look towards those. We think those are reasonable. If you want to add height to the Light Commercial, we don't have any problem with that. We would be glad to accept any extra height. We would have liked to have seen that, but we felt in the spirit of compromise we would be willing to adjust to the lower.

One thing we don't want you to do today is to take half of what Tim said and take out the residential and not raise the Light Commercial. Kind of the reason we don't want to get into that argument is that we thought that might happen. So, if you are only going to do this for a year, this is reasonable. If you are going to review it. If you start seeing problems, let me tell you, Marvin doesn't like towers. I have dealt with him. He doesn't hate them as much as he used to, but he doesn't like them. If he starts seeing that there are problems, you are going to know it. So we think you ought to go forward, pass it as it is and we congratulate the Planning Commission for allowing us to work more with the staff. We congratulate staff for being willing to make some accommodations. Thank you."

**GAROFALO** "Is there anyone else to speak? Scott, do you have something else?"

**KNEBEL** "The only thing I would add is that Mr. Austin did mention that on residential that all you would have to comply with is the compatibility setback. That is not exactly the case. There is a whole set of design guidelines in the plan that would have to be complied with in addition to just that one requirement."

**GAROFALO** "Any questions? If we have a motion to approve this, could the motion include a review after a certain period of time?"

**KROUT** "Sure."

**MARNELL** "Scott, I know we disagree on this, because I have discussed this with you before, but I will certainly be trying to make this as an amendment to a motion to pass this. I would like to see this passed today. In our material, if you will look at Page 121, of the Unified Zoning Code, Section 7, and I will tell you that this didn't come from industry people, this came from my reading of this and being familiar with it, and just generally not liking how it was written.

It says in here that the applicant shall 'demonstrate to the satisfaction of the approving authority'. Then it goes into the



criteria and the need for this facility. Not only have we heard the testimony from industry people that they are not anxious to run around and put these things in places where they have the ability to use other facilities, what I would prefer is that we change that, we strike the word 'demonstrate' and replace it with the word 'certify' and then leave the word 'to' in there and strike the next three words 'the satisfaction of', so that it would read 'the applicant shall certify to the approving authority'. I will tell you that there is no one in the Planning Commission, there is no one on City staff that is qualified to analyze this plan and to know, or should even have privy to the business plan of those carriers. They are not going to waste money putting frivolous facilities out there and to make a judgement on somebody's opinion that is not qualified. I think that is unreasonable."

**GAROFALO** "So you are saying change the word demonstrate to certify? And then?"

**MARNELL** "Yes, demonstrate to certify and then to the approving authority."

**GAROFALO** "So it's 'certify to the approving authority'?"

**MARNELL** "Yes. So they would have to certify it. The folks that have to sign legal documents all of the time will have to make a statement certifying that that is the case. That would be the only two changes I would be making at this time. If you want, I would make it into a form of a motion to approve the plan with that modification."

**GAROFALO** "Well, let's hear from the staff about that. Whether they have any concern about that."

**KROUT** "I want to be brief, and I understand that there is a difference of opinion on that. Remember that this is in the existing Code, it is not something that we are proposing that is new. In our experience, engineers vary widely in their level of competence, and we have found that having a third party look at these issues and suggest alternatives that the first engineer didn't even look at is very valuable and it has resulted in some better situations out there than we would have had otherwise if the initial engineer just signed and certified something. I think that truly would gut the whole intent of our ordinance and be a real step backwards from where we are today. We are really opposed to that. I understand why you are not."

**PLATT** "It seems to me that the marvelous comparison here in terms of what is being suggested and what we do in Subdivision Committee with drainage plans. If we allowed every developer's engineer to simply certify that 'this drainage plan will take care of the water', we would be in trouble up to our nose. No, we make them demonstrate to the City or County Engineer that they are successfully taking care of the water. The same thing here."

**MARNELL** "I don't disagree with that, George. Who is the qualified person on the City staff that is knowledgeable in this area?"

**PLATT** "We will have to get one."

**MARNELL** "Then let's make it part of the recommendation."

**KNEBEL** "It is part of the recommendation that in instances where assistance is needed that a third party engineer would be hired as a consultant. We are recommending that the fees be increased in order to pay that additional expense."

**MARNELL** "I see this as just burdensome to the industry that provides little value."

**OSBORNE-HOWES** "My first thought is to hear back from the people who are on the Committee about it. I am a little concerned for the same reasons that Mr. Platt is about certification. All that really says is 'gee, I believe, and I will stake my reputation on it', but that doesn't demonstrate it in any way. I guess I will have to say that I am a little concerned that you would make this proposal at this time. I think it is a serious compromise to what is being presented here today."

**HENTZEN** "Mr. Chairman, I was, of course, going through this while we were here, and I saw a bunch of stuff in there about costs. I just want to ask a question. Are those costs in effect now? Are they new charges? Are they increased charges? What are they?"

**KROUT** "We are talking about increased charges of a few hundred dollars per application (to someone else \$300, okay) for Administrative Permits and for Conditional Uses and that would pay, over the course of a year, for our expected amount of time that we would use third party consultants."

**KNEBEL** "Those increased charges are for new towers only."

**KROUT** "Right, not for modifications, additions or towers."

**HENTZEN** "Okay. The other thought would be that I heard somebody, I think, suggest that we would try to pass something and then have it reviewed in a year or year and a half. I think they said reviewed by the Planning Director. I would like to add that that review could not only be ignited by the Planning Director but by the Metropolitan Area Planning Commission also. In other words, if we had a Planning Director that wouldn't do it, we could still take a vote."

**KROUT** "I think we will hear, either from the industry or the neighbors, if either one of them are very unhappy with this as we go along."

**GAROFALO** "That was my intent, also."

**MICHAELIS** "I think if we look at this, and essentially the way I am looking at this, this is kind of like a Comp Plan. It is a place to start. It is something that we have that we didn't have before. There is nothing in there that says it can't be modified, changed as needed. For that reason, and I think there have been some good comments made from everybody that it should be looked at over a period of time. But in the essence of getting it going, I will make a motion."

**MOTION:** That the Metropolitan Area Planning Commission adopt the Wireless Master Plan as written, and that we occasionally look at it and make changes to it, based on the needs of the industry or individuals.

**MICHAELIS** moved.

**OSBORNE-HOWES** "I would second that if we would say that we would look at it every 12 months."

**MICHAELIS** "I think 12 months is plenty. I don't want to go too long."

**AMENDED MOTION:** That the Metropolitan Area Planning Commission adopt the Wireless Master Plan as written, and review it every 12 months, making changes to it, based on the needs of the industry or individuals.

**MICHAELIS** moved, **OSBORNE-HOWES** seconded the motion.

**HENTZEN** "I have a question. We are adopting the Plan as amended with the first blue sheet, plus the second blue sheet? Is that what we are doing?"

**GAROFALO** "Yes."

**HENTZEN** "Including this review approach that she mentioned with the time limit?"

**OSBORNE-HOWES** "Yes."

**HENTZEN** "So that is what we are voting on. The staff came with this recommendation (indicating), but then after talking to Connectivity, they responded with this second blue sheet. I want to know that we are including both of those."

**MICHAELIS** "It is basically staff comments and recommendations."

**GAROFALO** "Good. Okay, is there any other discussion on this?"

**MARNELL** "I would like to ask a question of Commissioner Osborne-Howes. When do you believe would have been the correct time for me to make this since you seem to think this was an inappropriate time for me to make this change at this time? Since we had a public hearing on this and the public hearing was closed, and was left open, and this is the first time we have come back to this issue. When should I have made this change. I took personal offense to that insinuation."

**OSBORNE-HOWES** "I feel that you are a member of the industry and that you were involved in some way at some point that you could have given those comments earlier. So I took a bit of an offense at your recommendation. I am sorry. This happens occasionally in here."

**MARNELL** "I will go further and say 'no I am not a member of that industry'."

**OSBORNE-HOWES** "Close enough."

**MARNELL** "And I did make those comments. I made them to staff. They didn't show up in there and this was the first chance I have had to make them to the Commissioners. Now, if you explain to me what is inappropriate with that."

**KROUT** "I think you did make some comments back in June at the hearing about that issue."

**BARFIELD** "In the essence of time, we had heard from these individuals that are directly involved with the industry and they have all spoken that they are in agreement with the staff recommendation. They have worked with them and they are satisfied with the compromise and they want to move on. Let's move on."

**GAROFALO** "Okay, let's vote on this thing unless somebody has something real urgent to say."

**MOTION:** The motion carried with 9 votes in favor (Osborne-Howes, Warner, Platt, Michaelis, Garofalo, Barfield, Marnell, Hentzen and Lopez). There was no opposition. Warren, Johnson, McKay and Carraher were not present.

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**12. Review and endorse City of Wichita's applications to KDOT for street and highway improvements, (Annual discretionary Funding Programs: KLINK; Economic Development; and Geometric Improvements.**

**KROUT** "Commissioners, we sent you information on the annual program that we are asking you, as the Metropolitan Planning Organization to endorse the applications for the City of Wichita for street and highway improvements. They are in three categorical programs that the Kansas Department of Transportation has and they would allow us to do repairs on West Kellogg at around 119<sup>th</sup> Street; to do improvements in the Hoover/MacArthur area, and also to widen Tyler Road in the vicinity of Harry and Pawnee that are related to economic development; or geometric improvements in the areas of the state highways, in the case of K-42 and Hoover.

We also have one more last minute request from the County, and that is to also endorse their application to a separate KDOT program that we didn't know about until just a few days ago. This is a program not for cities, but for unincorporated areas and small cities to apply for funding to the state for railroad grade separations. It can't be used for any city projects, but one of our high-ranked projects, if you recall, which is outside of the City limits was the Burlington-Northern route along K-15 and 47<sup>th</sup> Street, in the vicinity of Boeing. There is lots of traffic in that area. A grade separation would be very convenient and traffic-relieving. But there hasn't been money to fund that program, so it is not part of what is being designed by either the City or the County right now.

This is an 80% program. The County has already talked to Burlington Northern and asked them to participate at their required level, the 5 percent. Burlington Northern indicated that they would participate and then the County would have to contribute 15% to that pot. But I think that would be a great improvement if we could get the grant from KDOT. So we are asking to add that to the list and asking you to endorse the grant application."

**GAROFALO** "I only had one concern. Forty-Seventh Street South, how does that fit in with the KDOT redesigning of that? I mean, should we do that kind of work?"

**KROUT** "Well, the road is deteriorating, and so it does need to be resurfaced. Anything that we do in a major way to improve that section is probably years away."

**MOTION:** That the Metropolitan Planning Organization endorse the proposed projects.

**PLATT** moved, **HENTZEN** seconded the motion, and it carried unanimously (10-0).

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**Other Matters**

**GAROFALO** "Is there anything else?"

**KROUT** "Maybe the Chair has heard, but we haven't heard of anyone who is interested in serving on this Task Force for Zoning Code amendments. We are going to be at the point, in a couple of weeks, where we can begin to have meetings."

**WARNER** "Did you get any response you had in the paper?"

(Laughter)

**GAROFALO** "This is the Zoning Code amendments. Have we ever done this before?"

**KROUT** "Well, we did it most recently with the Subdivision Amendments. We had a subcommittee of about four people who served on that. I thought it was really useful. We also had, I think, Wess Galyon and maybe someone from the neighborhood was invited to walk through it. I think we can get through a lot of details that way."

**MCKAY** "I would like to move that everybody that isn't on the Subdivision Committee be on it."

**KROUT** "That would be fair. Would you like to hand this to the Advance Plans Committee?"

Several people said yes here.

**GAROFALO** "That was a good idea."

**OSBORNE-HOWES** "That is a great idea."

**BARFIELD** "When did you start advertising zoning cases in the newspaper?"

**KROUT** "They have always been advertised in the newspaper, but we have advertised in the newspaper with the lowest

bid up until this July 1. It was the Derby Daily Reporter until July 1 and the City Council decided that they were going to advertise in the Wichita Eagle."

**GAROFALO** "Do we need a motion for the Advance Plans Committee?"

**KROUT** "No, I think we will just schedule it."

**MOTION:** That the Metropolitan Area Planning Commission adjourn.

**BARFIELD** moved, **OSBORNE-HOWES** seconded the motion, and it carried unanimously (9-0).

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The meeting officially adjourned at 6:35 p.m.

State of Kansas        )  
Sedgwick County     ) <sup>ss</sup>

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
Marvin S. Krout, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)